

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
CHARGE AGAINST EMPLOYER

## INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
08-CA-241386	5-14-19

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

## 1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer University Hospitals		b. Tel. No. (b) (6), (b) (7)(C)
		c. Cell No.
d. Address (street, city, state ZIP code) (b) (6), (b) (7)(C)	e. Employer Representative (b) (6), (b) (7)	f. Fax No.
		g. E-mail (b) (6), (b) (7)(C) @uhhospitals.org
		h. Dispute Location (City and State) Cleveland, OH
i. Type of Establishment (factory, nursing home, hotel) Hospital	j. Principal Product or Service Health Care	k. Number of workers at dispute location 6000

1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Within the past six months, the above-named Employer, through its officers, agents and representatives, has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by refusing to promote (b) (6), (b) (7)(C) to its (b) (6), (b) (7)(C) position, a position for which (b) (6), (b) (7)(C) has been performing the job duties since approximately (b) (6), (b) (7)(C) 2018, because of (b) (6), (b) (7)(C) protected concerted activities.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

4a. Address (street and number, city, state, and ZIP code) (b) (6), (b) (7)(C)		4b. Tel. No.
		4c. Cell No. (b) (6), (b) (7)(C)
		4d. Fax No.
		4e. E-mail (b) (6), (b) (7)(C)
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)		

6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Tel. No.
By: (b) (6), (b) (7)(C)		Office, if any, Cell No. (b) (6), (b) (7)(C)
(sig) (b) (6), (b) (7)(C)		Fax No.
Print Name and Title (b) (6), (b) (7)(C)		E-mail (b) (6), (b) (7)(C)
Date: 5/2/2019		

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

## PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

(b) (6), (b) (7)(C)



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 8  
1240 E 9TH ST  
STE 1695  
CLEVELAND, OH 44199-2086

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (216)522-3715  
Fax: (216)522-2418



Download  
NLRB  
Mobile App

May 14, 2019

(b) (6), (b) (7)(C)

Re: University Hospitals  
Case 08-CA-241386

Dear (b) (6), (b) (7)(C) :

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

**Investigator:** This charge is being investigated by Field Examiner ROBERTA MONTGOMERY whose telephone number is (216)303-7371. If this Board agent is not available, you may contact Supervisory Attorney GREGORY GLEINE whose telephone number is (216)303-7365.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, [www.nlrb.gov](http://www.nlrb.gov), or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

**Presentation of Your Evidence:** We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

**Preservation of all Potential Evidence:** Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

**Prohibition on Recording Affidavit Interviews:** It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

**Procedures:** We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, [www.nlr.gov](http://www.nlr.gov). However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, [www.nlr.gov](http://www.nlr.gov) or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read 'IVA CHOE', followed by a long horizontal line extending to the right.

IVA CHOE  
Acting Regional Director

IC/kw

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire



**UNITED STATES OF AMERICA**  
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**UNIVERSITY HOSPITALS**

Charged Party

and

(b) (6), (b) (7)(C)

Charging Party

**Case 08-CA-241386**

**AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER**

I, the undersigned employee of the National Labor Relations Board, state under oath that on May 14, 2019, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

May 14, 2019

Date

Kim Wallace, Designated Agent of NLRB

Name

/s/ Kim Wallace

Signature



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 8  
1240 E 9TH ST  
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Telephone: (216)522-3715  
Fax: (216)522-2418



Download  
NLRB  
Mobile App

May 14, 2019

(b) (6), (b) (7)(C)

Re: University Hospitals  
Case 08-CA-241386

Dear (b) (6), (b) (7)(C)

The charge that you filed in this case on May 14, 2019 has been docketed as case number 08-CA-241386. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

**Investigator:** This charge is being investigated by Field Examiner ROBERTA MONTGOMERY whose telephone number is (216)303-7371. If this Board agent is not available, you may contact Supervisory Attorney GREGORY GLEINE whose telephone number is (216)303-7365.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, [www.nlr.gov](http://www.nlr.gov), or from an NLRB office upon your request.

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**Presentation of Your Evidence:** As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you

fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

**Preservation of all Potential Evidence:** Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read 'IVA CHOE', with a long horizontal line extending to the right.

IVA CHOE  
Acting Regional Director

IC/kw

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

(b) (6), (b) (7)(C)

Charging Party

and

University Hospital,

Respondent

CASE 08-CA-241386

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY  
NATIONAL LABOR RELATIONS BOARD  
Washington, DC 20570

☐ GENERAL COUNSEL  
NATIONAL LABOR RELATIONS BOARD  
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF \_\_\_\_\_  
University Hospital

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

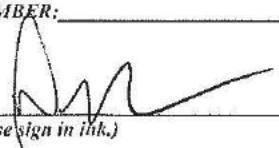
NAME: Douglas G. Smith

MAILING ADDRESS: Jackson Lewis P.C., Liberty Center, 1001 Liberty Avenue, Suite 1000, Pittsburgh, PA 15222

E-MAIL ADDRESS: douglas.smith@jacksonlewis.com

OFFICE TELEPHONE NUMBER: 412-232-0404

CELL PHONE NUMBER: \_\_\_\_\_ FAX: 412-232-3441

SIGNATURE:   
(Please sign in ink.)

DATE: 5-24-19

<sup>1</sup> IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.



NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

(b) (6), (b) (7)(C)

Charging Party

and

University Hospital,

Respondent

CASE 08-CA-241386

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY  
NATIONAL LABOR RELATIONS BOARD  
Washington, DC 20570

☐ GENERAL COUNSEL  
NATIONAL LABOR RELATIONS BOARD  
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF \_\_\_\_\_  
University Hospital

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

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(REPRESENTATIVE INFORMATION)


NAME: Zachary J. Mueller

MAILING ADDRESS: Jackson Lewis P.C., Liberty Center, 1001 Liberty Avenue, Suite 1000, Pittsburgh, PA 15222

E-MAIL ADDRESS: zachary.mueller@jacksonlewis.com

OFFICE TELEPHONE NUMBER: 412-232-0404

CELL PHONE NUMBER: \_\_\_\_\_ FAX: 412-232-3441

SIGNATURE:   
(Please sign in ink.)

DATE: 24 May 2019

<sup>1</sup> IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

**PLEASE REVIEW THE FOLLOWING  
IMPORTANT INFORMATION BEFORE FILLING OUT A  
QUESTIONNAIRE ON COMMERCE INFORMATION FORM!**

Please call the Board Agent to whom the pending charge or petition is assigned for assistance in completing the questionnaire on commerce information form. The Agent will be happy to answer your questions about the information requested on the form. This form should be completed by your representative best qualified to give information concerning the legal status, revenues, as well as, operations of your business.

In Questions 3, 4, 5 and 6, please provide all information requested including applicable zip codes and suite numbers.

Under Questions 10A through F, check the appropriate box for question. If you are required to indicate a dollar amount in Questions 10A through F, do so in the box to the immediate right of the question. If the information requested under Questions 10 through E is not applicable to your business, state the same in the box to the immediate right of the question.

After completing the questionnaire on commerce information form, be sure that the authorized representative completing the questionnaire on commerce signs and dates the questionnaire and mails, faxes or hand delivers the completed questionnaire to the appropriate Regional Office.

The information provided in the questionnaire on commerce information should be based on your business records reflecting the total yearly amount of business done by your enterprise or the yearly amount of your sales or of your purchases.

Be sure to include the telephone number of the party best qualified to provide further information concerning the operations of your business.

The completed questionnaire on commerce information should be submitted to the Board Agent to whom the pending charge or petition is assigned. If charges or petitions are pending in two or more Regions, a Board Agent to whom any of the pending charge or petition is assigned will be happy to assist you in locating the appropriate Regional Office in which to file the questionnaire on commerce information.

**QUESTIONNAIRE ON COMMERCE INFORMATION**

Please read carefully, answer all applicable items, and return to the NLRB Office.  
If additional space is required, please add a page and identify item number.

CASE NAME <b>UNIVERSITY HOSPITALS</b>	CASE NUMBER <b>08-CA-241386</b>
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1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

**University Hospitals Cleveland Medical Center**

2. TYPE OF ENTITY

☒ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify) **Non-Profit**

3. IF A CORPORATION OR LLC

A. STATE OF INCORPORATION OR FORMATION B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

**Ohio University Hospitals Health System Inc. (parent)**

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

**N/A**

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

**N/A**

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed)

**Healthcare Services**

7A. PRINCIPAL LOCATION

**(b) (6), (b) (7)(C)**

7B. BRANCH LOCATIONS

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL

**500+**

B. AT THE ADDRESS INVOLVED IN THIS MATTER

**500+**9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☒ 12 MONTHS or ☐ FISCAL YEAR FY DATES

	YES	NO
A. Did you <b>provide services</b> valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.	<b>X</b>	
B. If you answered no to 9A, did you <b>provide services</b> valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.		
C. If you answered no to 9A and 9B, did you <b>provide services</b> valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount.		
D. Did you <b>sell goods</b> valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount.		<b>X</b>
E. If you answered no to 9D, did you <b>sell goods</b> valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.		
F. Did you <b>purchase and receive goods</b> valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.	<b>X</b>	
G. Did you <b>purchase and receive goods</b> valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount.	<b>X</b>	
H. <b>Gross Revenues</b> from all sales or performance of services (Check the largest amount): <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input checked="" type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date:		<b>X</b>

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYEE GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☒ NO (If yes, name and address of association or group)

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME <b>Marcie Manson</b>	TITLE <b>Associate General Counsel</b>	E-MAIL ADDRESS <b>Marcie.Manson@UHhospitals.org</b>	TEL. NUMBER <b>216-767-8236</b>
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12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE <b>Zachary J. Mueller, Esq.</b>	SIGNATURE <b>Zachary Mueller</b> <small>Digitally signed by Zachary Mueller DN: CN Zachary Mueller email zachary.mueller@jacksonlewis.com C AD Date: 2019.07.11 09:05:55 -04:00</small>	E-MAIL ADDRESS <b>zachary.mueller@jacksonlewis.com</b>	DATE <b>08/19/2019</b>
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**PRIVACY ACT STATEMENT**

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UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 8  
1240 E 9TH ST  
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CLEVELAND, OH 44199-2086

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Telephone: (216)522-3715  
Fax: (216)522-2418

Agent's Direct Dial: (216)303-7371

June 6, 2019

Zachary J. Mueller, ESQ.  
Jackson Lewis, P.C.  
Liberty Center  
1001 Liberty Avenue, Suite 1000  
Pittsburgh, PA 15222

Douglas G. Smith, ESQ.  
Jackson Lewis, P.C.  
Liberty Center  
1001 Liberty Avenue, Suite 1000  
Pittsburgh, PA 15222

Re: University Hospitals  
Case 08-CA-241386

Gentlemen:

I am writing this letter to advise you that it is now necessary for me to take evidence from your client regarding the allegations raised in the investigation of the above-captioned matter.

**Allegations:** The allegations for which I am seeking your evidence are as follows. It is alleged that the Employer refused to promote (b) (6), (b) (7)(C) because (b) (6), (b) (7) engaged in protected concerted activities.

**Board Affidavits:** I am requesting to take affidavits from (b) (6), (b) (7)(C), (b) (7)(D), and (b) (6), (b) (7)(C), (b) (7)(D) and any other individuals you believe have information relevant to the investigation of the above-captioned matter. Please be advised that the failure to present representatives who would appear to have information relevant to the investigation of this matter, for the purposes of my taking sworn statements from them, constitutes less than complete cooperation in the investigation of the charge.

1. Why was (b) (6), (b) (7)(C) not awarded the position (b) (6), (b) (7) applied for?
2. Has (b) (6), (b) (7)(C), (b) (7)(D) or (b) (6), (b) (7)(C), (b) (7)(D) ever interrogated any employees about protected concerted activity they were engaged in?



3. If so, what was the purpose of this interrogation?
4. Was (b) (6), (b) (7)(C) not awarded the position (b) (6), (b) (7)(C) applied for because the Employer had knowledge or suspected (b) (6), (b) (7)(C) had been engaged in any protected concerted activity?

**Documents:** Please provide the following documents, along with any and all other evidence you deem to be relevant to the case:

1. (b) (6), (b) (7)(C) Personnel file.

**Date for Submitting Evidence:** To resolve this matter as expeditiously as possible, you must provide your evidence and position in this matter by **Friday, June 14, 2019**. If you are willing to allow me to take affidavits, please contact me by June 11, 2019 to schedule a time to take affidavits. Electronic filing of position statements and documentary evidence through the Agency website is preferred but not required. To file electronically, go to **www.nlrb.gov**, select **E-File Documents**, enter the **NLRB case number**, and follow the detailed instructions. If I have not received all your evidence by the due date or spoken with you and agreed to another date, it will be necessary for me to make my recommendations based upon the information available to me at that time.

Please contact me at your earliest convenience by telephone, (216)303-7371, or e-mail, [roberta.montgomery@nlrb.gov](mailto:roberta.montgomery@nlrb.gov), so that we can discuss how you would like to provide evidence and I can answer any questions you have with regard to the issues in this matter.

Very truly yours,

*/s/ Roberta Montgomery*

ROBERTA MONTGOMERY

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**From:** Mueller, Zachary J. (Pittsburgh) <Zachary.Mueller@jacksonlewis.com>  
**Sent:** Monday, June 10, 2019 3:59 PM  
**To:** Montgomery, Roberta  
**Cc:** Smith, Douglas G. (Pittsburgh); (b) (6), (b) (7)(C)  
**Subject:** RE: LTR.08-CA-241386.Request Evidence (1).pdf

Good Afternoon Ms. Montgomery,

Thank you for sending the evidence letter in this case. I am unfortunately out of town this week in contract negotiations, and I'll be away early next week as well. Doug is also in separate negotiations over that same period. I understand the time pressures the Regions face in these cases. Is there any possibility of a two-week extension to the deadline for our position statement? This extension will allow us to coordinate witness interviews and to prepare a response with the benefit of a complete record.

Thank you in advance for your time and assistance.

**Zachary J. Mueller**

Attorney at Law

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**From:** Montgomery, Roberta <Roberta.Montgomery@nlrb.gov>

**Sent:** Thursday, June 6, 2019 9:41 AM

**To:** Mueller, Zachary J. (Pittsburgh) <Zachary.Mueller@jacksonlewis.com>; Smith, Douglas G. (Pittsburgh) <Douglas.Smith@jacksonlewis.com>

**Subject:** LTR.08-CA-241386.Request Evidence (1).pdf

*Roberta A. Montgomery, Field Examiner*

*National Labor Relations Board*

*1695 AJC Federal Office Building*

*1240 E. 9<sup>th</sup> Street*

*Cleveland, Ohio 44199*

*(216) 303-7371*

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June 28, 2019

**VIA ELECTRONIC FILING**

Roberta Montgomery  
Field Examiner  
National Labor Relations Board  
Region 8  
1240 E. 9th Street, Suite 1695  
Cleveland, Ohio 44199-2086

Re: University Hospitals  
Case No. 08-CA-241386

Dear Ms. Montgomery:

This letter is the Statement of Position of University Hospitals in response to the above-referenced unfair labor practice charge filed by (b) (6), (b) (7)(C)<sup>1</sup> As you know, (b) (6), (b) (7)(C) alleges that University Hospitals violated Section 8(a)(3) of the National Labor Relations Act ("NLRA"), by failing to select (b) (6), (b) (7)(C) for a desired promotion, purportedly because of (b) (6), (b) (7)(C) alleged protected concerted activity.

(b) (6), (b) (7)(C) claims are without merit, and the Charge should be dismissed, absent withdrawal. As detailed below, University Hospitals did not discriminate against (b) (6), (b) (7)(C) because (b) (6), (b) (7)(C) engaged in protected concerted activity or because of any other impermissible reason. Rather, the Hospital simply selected the most-qualified candidate for the job in question. For these

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<sup>1</sup> The information in this correspondence is based upon University Hospitals' preliminary investigation and reflects its understanding of the events relevant to your inquiry. This letter includes only information about which University Hospitals is aware at this time. University Hospitals reserves the right to supplement, modify, or amend the record at any time with additional or newly discovered information. Further, the information contained in this letter does not constitute a waiver of University Hospitals' right to respond to and controvert the allegations in any charge filed by the Charging Party at a later date in any other forum or any other National Labor Relations Board proceeding.

reasons, University Hospitals did not violate Section 8(a)(3) of the Act. (b) (6), (b) (7)(C) has no evidence to the contrary, and (b) (6), (b) (7)(C) Charge should be dismissed.

## **I. FACTUAL BACKGROUND**

Founded over 150 years ago in 1866, University Hospitals began as a single hospital in a two-story house in Cleveland, Ohio. From those humble beginnings, University Hospitals has grown into Northeast Ohio's largest network of primary care physicians, outpatient centers, and hospitals. University Hospitals is one of the nation's leading health care systems, providing award-winning, patient-centered care that meets the highest standards for quality and patient safety.

This case is about events that occurred at University Hospitals' Cleveland Medical Center. The Cleveland Medical Center, an affiliate of Case Western Reserve University, is a national leader among academic medical centers. With more than 1,000 registered beds, it provides an array of primary, specialty, and subspecialty medical and surgical care.

### **A. University Hospitals hires and trains (b) (6), (b) (7)(C) as a (b) (6), (b) (7)(C).**

In (b) (6), (b) (7)(C) began working for University Hospitals as a (b) (6), (b) (7)(C) in the (b) (6), (b) (7)(C) Lab (b) (6), (b) (7)(C) at the Cleveland Medical Center. The position was (b) (6), (b) (7)(C) first in the field since obtaining (b) (6), (b) (7)(C) degree in (b) (6), (b) (7)(C) earlier that year. With training and guidance from management and (b) (6), (b) (7)(C) peers in the (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) soon proved to be an enthusiastic, technically-sound (b) (6), (b) (7)(C) with potential for growth.

(b) (6), (b) (7)(C) performance reviews over the years were generally positive, but they also consistently noted several areas for improvement. For example, (b) (6), (b) (7)(C) struggled to control (b) (6), (b) (7)(C) reactions to stressful situations—a concern identified by (b) (6), (b) (7)(C) and coworkers alike. Management counseled (b) (6), (b) (7)(C) that rather than get frustrated with coworkers in those scenarios, (b) (6), (b) (7)(C) should use that energy to teach and motivate others.

### **B. Inspired by the CEO's encouragement of employees to "speak up," a group of (b) (6), (b) (7)(C) compose a polite, professional letter outlining several workplace concerns.**

In spring 2018, a group of (b) (6), (b) (7)(C) purportedly gathered to discuss their shared concerns about their jobs and recent changes at the Hospital. A few months later, inspired by CEO Thomas Zenty's address on the importance of the organization's "speak up" culture, the (b) (6), (b) (7)(C) decided to note their concerns in a letter to University Hospitals' leadership. In June 2018, a single employee, (b) (6), (b) (7)(C) presented the letter to (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

The letter was exceedingly polite and professional. The opening paragraph praised (b) (6), (b) (7)(C) calling (b) (6), (b) (7)(C) "an outstanding (b) (6), (b) (7)(C) for whom the (b) (6), (b) (7)(C) had "unimaginable respect." The (b) (6), (b) (7)(C) also stressed that (b) (6), (b) (7)(C) "exemplifies leadership, patient care, [and] (b) (6), (b) (7)(C) The (b) (6), (b) (7)(C) then noted their disappointment that several colleagues had left



the Hospital in the past year, before identifying staffing, productivity, and compensation as areas for potential improvement. *See* Ex. A (b) (6), (b) (7)(C) Letter).

When (b) (6), (b) (7)(C) presented the letter to (b) (6), (b) (7)(C) the letter was unsigned. (b) (6), (b) (7)(C) explained that (b) (6), (b) (7)(C) and other (b) (6), (b) (7)(C) ultimately chose not to sign it because morale had improved in the (b) (6), (b) (7)(C). Indeed, (b) (6), (b) (7)(C) noted that the (b) (6), (b) (7)(C) in question had initially decided not to prepare the letter at all, only changing their minds when Zenty inspired them with (b) (6), (b) (7)(C) address about University Hospitals' "speak up" culture.

At first, only (b) (6), (b) (7)(C) spoke with (b) (6), (b) (7)(C) about the letter. Months later, in August, (b) (6), (b) (7)(C) approached (b) (6), (b) (7)(C) and told (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) was involved as well. The subject never came up between (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) after that brief interaction. What's more, the only other discussion of the letter involving (b) (6), (b) (7)(C) was a single email sent by (b) (6), (b) (7)(C) in July, asking (b) (6), (b) (7)(C) —in an effort to gain a better understanding of morale within the (b) (6), (b) (7)(C) whether the letter was signed by all the (b) (6), (b) (7)(C) or only a small group (without asking who specifically wrote the letter).

**C. After University Hospitals invites employees to interview for the position of (b) (6), (b) (7)(C) emerges as the most-qualified candidate.**

In mid-2018, (b) (6), (b) (7)(C) left for another position. While the Hospital searched for a replacement, (b) (6), (b) (7)(C) asked all the (b) (6), (b) (7)(C) to help perform the duties normally assigned to (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) thus distributed the former (b) (6), (b) (7)(C) duties among all (b) (6), (b) (7)(C) in the (b) (6), (b) (7)(C) with everyone taking on their fair share.

A few months later, in November 2018, University Hospitals posted the (b) (6), (b) (7)(C) position internally, inviting employees to apply. The (b) (6), (b) (7)(C) is a demanding job: it requires (b) (6), (b) (7)(C) to take on an important leadership role in the (b) (6), (b) (7)(C) while performing the normal duties of a (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) must serve as both a leader in the department and as an example to junior staff. The position demands ability in time management and problem solving and requires exceptional communication skills. *See* Ex. B (b) (6), (b) (7)(C). Four (b) (6), (b) (7)(C) applied for the position, including (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) stood out above the others.

(b) (6), (b) (7)(C) began working for University Hospitals as a (b) (6), (b) (7)(C) in (b) (6), (b) (7)(C). Although (b) (6), (b) (7)(C) had been at the (b) (6), (b) (7)(C) for only a few months, (b) (6), (b) (7)(C) had distinguished (b) (6), (b) (7)(C) through (b) (6), (b) (7)(C) training and performance. This was reflected in (b) (6), (b) (7)(C) review, in which management not only praised (b) (6), (b) (7)(C) technical skills as a (b) (6), (b) (7)(C) but also noted that (b) (6), (b) (7)(C) had already proven (b) (6), (b) (7)(C) to be a natural leader. *See* Ex. C (b) (6), (b) (7)(C) Review). Further, unlike most of (b) (6), (b) (7)(C) peers, who held (b) (6), (b) (7)(C) degrees, (b) (6), (b) (7)(C) had a (b) (6), (b) (7)(C) (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) also had a (b) (6), (b) (7)(C) experience in the field, with (b) (6), (b) (7)(C) including over (b) (6), (b) (7)(C) years of experience as (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) *See* Ex. D (b) (6), (b) (7)(C) Resume).

(b) (6), (b) (7)(C) in short, had superior training and experience, and had shown that (b) (6) could both lead by example and take charge of the stressful situations that often arose in the (b) (6), (b) (7)(C). Indeed, (b) (6), (b) (7)(C) had more experience in (b) (6), (b) (7)(C) than all the other candidates combined, and (b) (6), (b) (7)(C) was the only one with experience (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) also separated (b) (6), (b) (7)(C) by consistently remaining calm under pressure, and (b) (6), (b) (7)(C) quickly gained the respect of (b) (6), (b) (7)(C) peers as a result.

It was not just management who took notice of (b) (6), (b) (7)(C)'s suitability for the (b) (6), (b) (7)(C) position. (b) (6), (b) (7)(C) in discussions with (b) (6), (b) (7)(C) about the job posting, said that (b) (6), (b) (7)(C) was nervous when (b) (6), (b) (7)(C) found out that (b) (6), (b) (7)(C) had applied for the position because of (b) (6), (b) (7)(C) extensive qualifications. (b) (6), (b) (7)(C) also mentioned in conversations with both (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) was worried about (b) (6), (b) (7)(C) chances against (b) (6), (b) (7)(C) because (b) (6), (b) (7)(C) held (b) (6), (b) (7)(C) degree while (b) (6), (b) (7)(C) held (b) (6), (b) (7)(C) degree.

**D. After interviewing four (b) (6), (b) (7)(C) including (b) (6), (b) (7)(C) University Hospitals selects the best candidate for the job—(b) (6), (b) (7)(C)**

Despite (b) (6), (b) (7)(C)'s exceptional qualifications, University Hospitals made no decision until it had interviewed all four candidates. In December 2018, each candidate was interviewed by three different managers (b) (6), (b) (7)(C)).<sup>2</sup> The interviewers asked questions designed to test each candidate's suitability for (b) (6), (b) (7)(C), focusing on the key attributes required to succeed in that role. The questions centered on, among other things, the candidates' passion for leadership; conflict resolution and negotiation skills; adaptability; creativity; decision making; and—perhaps most importantly—their ability to manage others.

After meeting with the applicants, all three interviewers agreed that the two best candidates were (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C). (b) (6), (b) (7)(C) in turn, interviewed the best of all the candidates, and (b) (6), (b) (7)(C) qualifications were easily the most impressive. While (b) (6), (b) (7)(C) was a skilled (b) (6), (b) (7)(C) training and experience surpassed (b) (6), (b) (7)(C) own. See Ex. E ((b) (6), (b) (7)(C) Resume). (b) (6), (b) (7)(C) had over (b) (6), (b) (7)(C) years (b) (6), (b) (7)(C) under (b) (6), (b) (7)(C) belt, and (b) (6), (b) (7)(C) had already served in several management positions. (b) (6), (b) (7)(C) had also proven that (b) (6), (b) (7)(C) could remain calm in even the most stressful situations. In the end, (b) (6), (b) (7)(C) superior qualifications—especially (b) (6), (b) (7)(C) past leadership experience—made (b) (6), (b) (7)(C) the most qualified candidate for (b) (6), (b) (7)(C).

University Hospitals promoted (b) (6), (b) (7)(C) to (b) (6), (b) (7)(C) in (b) (6), (b) (7)(C) 2019. Since then, (b) (6), (b) (7)(C) has succeeded in (b) (6), (b) (7)(C) new role. In a peer review in (b) (6), (b) (7)(C) 2019, a coworker emphasized (b) (6), (b) (7)(C) leadership skills, calling (b) (6), (b) (7)(C) “[a] natural leader who commands the respect of (b) (6), (b) (7)(C) team members by according to them the same amount of respect.” This coworker also had high praise for (b) (6), (b) (7)(C) “excellent communication skills” and (b) (6), (b) (7)(C) “extremely professional” demeanor. (b) (6), (b) (7)(C) was also lauded for “set[ting] a good example by ensuring that (b) (6), (b) (7)(C) never loses (b) (6), (b) (7)(C) composure even in the most stressful situations.” (b) (6), (b) (7)(C) leadership, the coworker noted, had “improved intra-team relationships” and “helped improve team productivity.” See Ex. F ((b) (6), (b) (7)(C) Peer Review). These

<sup>2</sup> Of the three interviewers, only (b) (6), (b) (7)(C) knew of (b) (6), (b) (7)(C) participation in the (b) (6), (b) (7)(C) letter.

accolades were echoed by management, who noted how (b) (6), (b) (7)(C) had successfully transitioned to the role of (b) (6), (b) (7)(C), displaying superior leadership ability. See Ex. G (b) (6), (b) (7)(C) Annual Review).

## II. ARGUMENT

### A. (b) (6), (b) (7)(C) cannot make out a *prima facie* case of retaliation.

(b) (6), (b) (7)(C) cannot demonstrate that University Hospitals unlawfully retaliated against (b) (6), (b) (7)(C) because of (b) (6), (b) (7)(C) alleged protected concerted activities. In cases where, as here, an employee alleges that (b) (6), (b) (7)(C) suffered adverse action because of (b) (6), (b) (7)(C) union or other protected concerted activities, the Board applies the familiar burden-shifting test set forth in *Wright Line*, 251 NLRB 1083, 1089 (1980), *enf'd.*, 662 F.2d 899 (1st Cir. 1981). See also *NLRB v. Transportation Management Corp.*, 462 U.S. 393, 395 (1983) (approving *Wright Line* analysis).

Under *Wright Line*, the General Counsel must prove by a preponderance of the evidence that an employee's union or other protected conduct was a motivating factor in the employer's action against the employee. *Aliante Casino & Hotel*, 364 NLRB No. 80, slip op. at 40 (2016). In this analysis, the General Counsel has the initial burden of establishing the existence of union or other protected activity, knowledge of that activity by the employer, and animus against the employee's protected conduct. *Donaldson Bros. Ready Mix, Inc.*, 341 NLRB 958, 961 (2004). If the General Counsel carries this initial burden, the burden shifts to the employer to prove, as an affirmative defense, that it would have taken the same action even in the absence of the protected activity. *Wright Line*, 251 NLRB at 1089.

To establish a *prima facie* case of unlawful motivation in the first part of the *Wright Line* test, the General Counsel must prove not only that the employer knew of the employee's union activities or sympathies, but also that the timing of the alleged reprisals was proximate to the protected activities and that there was antiunion animus to "link the factors of timing and knowledge to the improper motivation." *United Federation of Teachers Welfare Fund*, 322 NLRB 385, 392 (1996) (citing *Hall Construction v. NLRB*, 941 F.2d 684 (8th Cir. 1991)).

Here, there is no evidence that (b) (6), (b) (7)(C) indirect role in presenting the (b) (6), (b) (7)(C) letter played any part in the Hospital's decision to promote (b) (6), (b) (7)(C) nearly half a year later. Initially, it is difficult to see how (b) (6), (b) (7)(C) who participated in the decision to promote (b) (6), (b) (7)(C) over (b) (6), (b) (7)(C) would have harbored retaliatory animus against (b) (6), (b) (7)(C). Although the (b) (6), (b) (7)(C) letter raised several workplace issues, it did so in a courteous and professional manner, with the authors repeatedly expressing their pride in working for University Hospitals. More fundamentally, the letter had nothing but praise for (b) (6), (b) (7)(C) referring to (b) (6), (b) (7)(C) as "an outstanding (b) (6), (b) (7)(C) for whom the (b) (6), (b) (7)(C) had "unimaginable respect." See Ex. A. Thus, there is no reason to conclude that (b) (6), (b) (7)(C) harbored any retaliatory intent toward any of the (b) (6), (b) (7)(C) who wrote the letter.

The timing of the promotion decision also belies (b) (6), (b) (7)(C) allegations. (b) (6), (b) (7)(C) as noted, presented the (b) (6), (b) (7)(C) letter to (b) (6), (b) (7)(C) in spring 2018, and (b) (6), (b) (7)(C) informed (b) (6), (b) (7)(C) of



(b) (6), (b) (7)(C) participation in August. (b) (6), (b) (7)(C) then did not interview for (b) (6), (b) (7)(C) until months later, in December 2018 and January 2019. The subject of the letter did not come up between (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) in the intervening months, and (b) (6), (b) (7)(C) has not alleged that (b) (6), (b) (7)(C) (or anyone else, for that matter) treated (b) (6), (b) (7)(C) any differently in that period.

Finally, the other two interviewers for the (b) (6), (b) (7)(C) position, (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C), had no knowledge of (b) (6), (b) (7)(C) alleged protected concerted activity when they interviewed (b) (6), (b) (7)(C) for (b) (6), (b) (7)(C). Both, moreover, agreed that (b) (6), (b) (7)(C) was the most-qualified candidate for the position.

In sum, (b) (6), (b) (7)(C) has failed to show that the Hospital's decision to promote (b) (6), (b) (7)(C) was motivated by (b) (6), (b) (7)(C) alleged protected concerted activity—and not by (b) (6), (b) (7)(C) superior qualifications for the job. Thus, (b) (6), (b) (7)(C) cannot make out a *prima facie* case of retaliation under *Wright Line*.

**B. University Hospitals would have promoted (b) (6), (b) (7)(C) over (b) (6), (b) (7)(C) even in the absence of any alleged protected activity.**

Even assuming that (b) (6), (b) (7)(C) could establish a *prima facie* case, University Hospitals has met its burden of showing that it would have promoted (b) (6), (b) (7)(C) over (b) (6), (b) (7)(C) in the absence of any protected activity. Under *Wright Line*, if the charging party establishes a *prima facie* case of discrimination, the burden shifts to the employer to demonstrate by a preponderance of the evidence that it would have taken the same action in the absence of the protected conduct. *Wright Line*, 251 NLRB at 1089.

The “crucial factor” in this analysis “is not whether the business reasons cited by [the employer] were good or bad, but whether they were honestly invoked and were, in fact, the cause of the change.” *Healthcare Emples. Union, Local 399 v. NLRB*, 463 F.3d 909, 921-22 (9th Cir. 2006) (quoting *NLRB v. Savoy Laundry*, 327 F.2d 370, 371 (2d Cir. 1964)). So the fact that an employee may have engaged in some type of protected activity and was thereafter not selected for a promotion is not enough to establish a retaliatory motive. *See, e.g., Neptco, Inc.*, 346 NLRB 18, 20 (2005) (explaining that “mere coincidence [in time] is not sufficient evidence of [union] animus”).

Here, the evidence shows that University Hospitals would have chosen (b) (6), (b) (7)(C) for the (b) (6), (b) (7)(C) position even in the absence of any alleged protected activity on (b) (6), (b) (7)(C) part. Although (b) (6), (b) (7)(C) is a skilled (b) (6), (b) (7)(C), (b) (6), (b) (7)(C) qualifications fall objectively short of (b) (6), (b) (7)(C). As detailed above, (b) (6), (b) (7)(C) is a (b) (6), (b) (7)(C) with (b) (6), (b) (7)(C) of (b) (6), (b) (7)(C) experience, to say nothing of (b) (6), (b) (7)(C) superior credentials. And despite (b) (6), (b) (7)(C) capable performance over the years, (b) (6), (b) (7)(C) had (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) role. (b) (6), (b) (7)(C) by contrast, had years of leadership experience.

Even (b) (6), (b) (7)(C) recognized how qualified (b) (6), (b) (7)(C) was for the job, admitting that (b) (6), (b) (7)(C) was nervous that (b) (6), (b) (7)(C) had applied and was concerned about (b) (6), (b) (7)(C) chances against (b) (6), (b) (7)(C) (noting, among other things, (b) (6), (b) (7)(C) comparatively higher degree). In the end, after evaluating the candidates, all three interviewers agreed that (b) (6), (b) (7)(C) was the best fit for (b) (6), (b) (7)(C): (b) (6), (b) (7)(C) excellent interview, impressive resume, wealth of experience, and leadership ability made (b) (6), (b) (7)(C) stand apart.



University Hospitals, in short, has met its burden of showing that it would have taken the same action in the absence of (b) (6), (b) (7)(C) alleged protected concerted activity. As a result, the Charge should be dismissed, even if the Region finds that (b) (6), (b) (7)(C) has met (b) (6), (b) (7)(C) initial burden under *Wright Line*.

### III. CONCLUSION

At bottom, University Hospitals did no more than promote the candidate best suited for the job. (b) (6), (b) (7)(C) disappointment that (b) (6), (b) (7)(C) was not that candidate, while understandable, cannot serve as the basis for a valid charge under Section 8(a)(3). For that reason, (b) (6), (b) (7)(C) claims should be dismissed absent withdrawal.

Should you need any additional information, please do not hesitate to reach out to me at your convenience.

Very truly yours,

JACKSON LEWIS P.C.



Zachary J. Mueller

Enclosures

cc: Douglas G. Smith

# Exhibit A

We, the (b) (6), (b) (7)(C) of University Hospitals Cleveland Medical Center, have come to you, our leaders, to voice our concerns about our careers and our positions here at University Hospitals. We are grateful for and have unimaginable respect for (b) (6), (b) (7)(C), as (b) (6) exemplifies leadership, patient care, (b) (6), (b) (7)(C) and just as important, (b) (6) is an outstanding (b) (6), (b) (7)(C). However, per Thomas Zenty's system address, we are encouraged to demonstrate a "speak up" culture when we are concerned about work place issues. We are encouraged to "speak up" if we have concerns for ourselves and or our patients. We know communication is key. Is in fact necessary for any successful relationship including that of employee and management. That we must be doing best practices for best patient outcomes, and if not, it is our responsibility to "speak up". Collectively, we have spent decades here at UH and each and every one of us feels this is the premier place for our careers to be. We are proud to be UH employees, and show that pride every day in the work we do. With that being said, we have concerns about recent changes in our workflow and productivity. We feel the need to "speak up" now.

We've had several (b) (6), (b) (7)(C) leave in the last six to twelve months, two of which were (b) (6), (b) (7)(C) with (b) (6), (b) (7)(C) years' experience here and another (b) (6), (b) (7)(C) whom had been with us several years. We've had several (b) (6), (b) (7)(C) out for a month or more with work related (b) (6), (b) (7)(C) injuries, one of which is still out. And we have several (b) (6), (b) (7)(C) whom are continuing to look for employment elsewhere. We don't want to lose any more (b) (6), (b) (7)(C) to injury or job dissatisfaction. Skilled and knowledgeable (b) (6), (b) (7)(C) are hard to find and when we lose one of our (b) (6), (b) (7)(C) family, it hurts our lab and by proxy, our patients.

For decades University Hospitals has been the (b) (6), (b) (7)(C) of choice for (b) (6), (b) (7)(C) to work. For 25+ years, every (b) (6), (b) (7)(C) who has left UH has left to work in industry, or for full time employment that we were unable to provide at the time. Over the last couple years that has changed. Our (b) (6), (b) (7)(C) are now leaving to work in other labs. All three of the above mentioned (b) (6), (b) (7)(C) left to work in other hospitals. This shift in (b) (6), (b) (7)(C) employment is directly related to the changes that we are seeing in our workflow and resource utilization in the (b) (6), (b) (7)(C). They are directly related to the amount of (b) (6), (b) (7)(C) that we are trying to perform with limited resources available to us as well as the amount of portable (b) (6), (b) (7)(C) we perform. They are directly related to home life balance.

We understand change is ever evolving and necessary. We understand you have a responsibility not only to your employees but to the patient population of the greater Cleveland area and beyond. However, per our UH values which have been instilled in us since our first day of employment here, and for many of us our student days here, we are to heal, to teach and to discover, something we do superbly here at UH. But we're also striving for best practices, a UH value that is increasingly becoming harder to do. We do not have the resources we need to provide the care you want for our patients. Mr. Zenty told us we have increased our patient population in less than a decade from 300,000+ patients, to 1,200,000 patients. That is an amazing fact we take pride in. Our growth is a reflection of our superior quality care. And we take pride in being a superior (b) (6), (b) (7)(C) that is second to none. But, if we don't have resources, quality suffers.

Several locations and shifts routinely have no nursing coverage, and we have (b) (6), (b) (7)(C) critical events without the aid of a nurse, or utilization of (b) (6), (b) (7)(C). These are clearly patient quality and safety issues that should not be occurring in UH facilities as they do not project the quality and safety UH strives for. These do not lead to a high reliability organization UH is striving to become. (b) (6), (b) (7)(C) without nursing assistance and alone, are ineffective at best and often dangerous at

worst. We recently had a (b) (6), (b) (7)(C) an outpatient that desperately needed (b) (6), (b) (7)(C) to (b) (6), (b) (7)(C), and they were totally alone in the suite with no staff support. The only people on the entire second floor of our Broadview facility was the patient (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C). This is not a safe environment for anyone. And unfortunate for the patient that did not receive the quality (b) (6), (b) (7)(C) they deserve as they had a nondiagnostic result for our lack of having necessary support. After the patient left, the (b) (6), (b) (7)(C) was totally alone in a building with a delivery man trying to make a delivery. Again, an unsafe environment for a (b) (6), (b) (7)(C) staff to be totally alone with all surrounding suites empty, and an unknown male whom knows (b) (6), (b) (7)(C) alone.

(b) (6), (b) (7)(C), without the appropriate amount of (b) (6), (b) (7)(C), or adequate transport to get our patients to us in a timely matter, makes it increasingly difficult to get the studies done. Senior leadership's idea of providing a (b) (6), (b) (7)(C) on staff for an 11:30-8 pm shift is of great concern to those of us who've had the misfortune to work alone at UH facilities without the support of a physician or nurse to aid in patient care and/or critical events that come up. And it's concerning as pulling a (b) (6), (b) (7)(C) to come in late, leaves us lacking a (b) (6), (b) (7)(C) to help get all those portable units done in a timely matter. We have had these struggles while working Saturdays and it has proven to be inefficient and not the best practice from a quality standpoint.

For example, there have been several recent Saturdays where the (b) (6), (b) (7)(C) has been unable to use (b) (6), (b) (7)(C) as indicated, or (b) (6), (b) (7)(C) as needed and have been unable to have nursing or cardiology fellow support to aide us. Again this is not conducive to a high reliability organization that UHCMC is striving to be. Nor would any of us want an uninterpretable (b) (6), (b) (7)(C) performed on our loved ones. We do not want to perform one on any patient as this goes against every core value UH has instilled in us. We do not, under any circumstances, want to perform a subpar exam as we are highly skilled, highly trained individuals who strive to do the best by every patient, every time. There should be no instance that has us performing a less than quality complete exam that every UH patient deserves, and our communities expect. It is well within the national guidelines and (b) (6), (b) (7)(C) scope of practice that we perform these functions ourselves; however, until UH gets on board with this, we are at the mercy of colleagues to perform these functions.

We have also recently asked HR to do a wage market analysis comparing our wages with local hospitals, as well as presented them with the (b) (6), (b) (7)(C) documents showing national wages because we have discrepancy in pay. We were told our wages were on target with some of us receiving larger increases in pay while others did not. When we have interviewed elsewhere, and some of us have left for other positions, even our local county hospital (b) (6), (b) (7)(C) are making significantly more than a premier facility such as UH. Our wages are not on target.

We would invite any one of you to spend time in our labs with us, working with us, and seeing what we do each and every day. This would help us to come up with improvements that need leadership involvement so that your desired goals are met, while keeping us healthy and happy at UH. More importantly, this would allow us to provide the best quality care for our patients. We feel it is clear the grow as fast as you can, do more with less, mentality is detrimental to University Hospital's best interests. We would like to work together with you, our leaders, to figure out a way to continue to provide the superior quality work we've been providing for decades, without injury, quality, and safety

concerns we face often times daily at UH. Help us do our jobs better. Every one of us works at UH with pride. And every one of us wants to continue to work at UH with pride.



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**From:** (b) (6), (b) (7)(C)  
**Sent:** Thursday, July 11, 2019 11:34 AM  
**To:** Montgomery, Roberta  
**Subject:** Fwd:  
**Attachments:** [Untitled].pdf

Sent from my iPhone

Begin forwarded message:

**From:** (b) (6), (b) (7)(C)  
**Date:** June 7, 2018 at 7:22:46 PM EDT  
**To:** (b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C)

**Subject:** Fwd:

Here is the letter. Sorry it's the draft I was writing on. Jot down your thoughts so we can discuss. I think we should have another meeting to finalize our thoughts after the final draft is written. Thoughts?

-----Original Message-----

**From:** (b) (6), (b) (7)(C)  
**To:** (b) (6), (b) (7)(C)  
**Sent:** Thu, Jun 7, 2018 7:45 am  
**Subject:** FW:

(b) (6), (b) (7)(C)

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**From:** (b) (6), (b) (7)(C)  
**Sent:** Thursday, June 07, 2018 7:38 AM  
**To:** (b) (6), (b) (7)(C)  
**Sub**

Please open the attached document. This document was digitally sent to you using an HP Digital Sending device.

Visit us at [www.UHhospitals.org](http://www.UHhospitals.org).

The enclosed information is STRICTLY CONFIDENTIAL and is intended for the use of the addressee only. University Hospitals and its affiliates disclaim any responsibility for unauthorized disclosure of this information to anyone other than the addressee.

Federal and Ohio law protect patient medical information, including psychiatric\_disorders, (H.I.V) test results, A.I.Ds-related conditions, alcohol, and/or drug\_dependence or abuse disclosed in this email. Federal regulation (42 CFR Part 2) and Ohio Revised Code section 5122.31 and 3701.243 prohibit disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law.

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*7*  
*we do not want quality to suffer*  
*lack of resources*

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(b) (6), (b) (7)(C) at the main campus, without the appropriate amount of (b) (6), (b) (7)(C) -adequate transport to get our patients to us in a timely matter, makes it increasingly difficult to get the studies done. Senior leadership's idea of providing a (b) (6), (b) (7)(C) on staff for an 11:30-8 pm shift is of great concern to those of us who've had the misfortune to work alone at UH facilities without the support of a physician or nurse to aid in patient care and/or critical events that come up. And it's concerning as pulling a (b) (6), (b) (7)(C) to come in late, leaves us lacking a (b) (6), (b) (7)(C) to help get all those portable units done in a timely matter. We have had these struggles while working Saturdays and it has proven to be inefficient and not the best practice from a quality standpoint.

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(b) (6), (b) (7)(C) 2018-Former (b) (6), (b) (7)(C) left UH

- (b) (6), (b) (7)(C) was promoted from within after stepping up and helping (b) (6), (b) (7)(C) with administrative duties
- (b) (6), (b) (7)(C) did not have a bachelor's degree
- During my annual review I was told (b) (6), (b) (7)(C) had approval and that they were splitting the (b) (6), (b) (7)(C) duties into a (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) and a (b) (6), (b) (7)(C) when (b) (6), (b) (7)(C) left. I was told that (b) (6), (b) (7)(C) was going to observe the staff to see who steps up and takes on extra responsibilities

April-June 2018

- (b) (6), (b) (7)(C) had approved for me to be granted access to Sorian financials to help (b) (6), (b) (7)(C) with the lab's billing. A job formerly performed by (b) (6), (b) (7)(C)
- Changes in the lab were causing the morale to fall
- The (b) (6), (b) (7)(C) meet to discuss the changes in the lab and the concerns they had
- After listening to Mr. Zenty's address to the hospital system and (b) (6), (b) (7)(C) talking about the "Speak-Up" culture a letter was drafted. The letter addressed all of the (b) (6), (b) (7)(C) concerns and was going to be sent to our management team
- (b) (6), (b) (7)(C) heard the lab morale was down. I was told (b) (6), (b) (7)(C) approached (b) (6), (b) (7)(C) to ask about it. (b) (6), (b) (7)(C) suggested the (b) (6), (b) (7)(C) talk to one of the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) which (b) (6), (b) (7)(C) did. (b) (6), (b) (7)(C) read the letter and gave (b) (6), (b) (7)(C) opinion; which was that it was a good letter.
- The letter was a draft, it was not addressed to anyone or signed by anyone
- We as a lab respect (b) (6), (b) (7)(C) and wanted to keep (b) (6), (b) (7)(C) informed as to what was going on, we wanted to follow the chain of command, so the (b) (6), (b) (7)(C) showed the letter to (b) (6), (b) (7)(C)
- After the letter was written the morale in the lab began to improve for many reasons. I believe just seeing their thoughts and concerns on paper made them feel better, (b) (6), (b) (7)(C) addressed some of the safety concerns the staff had, our new machines arrived, and following the



departure of (b) (6), (b) (7)(C) the lab was running smoothly again. It was decided that we would not be sending the letter.

#### August 2018

- The (b) (6), (b) (7)(C) who had drafted the letter was called into a meeting with (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) had a copy of the unaddressed unsigned letter. (b) (6), (b) (7)(C) was told that what happened was wrong and broke the chain of command, kept asking (b) (6), (b) (7)(C) if (b) (6), (b) (7)(C) was learning from this experience. (b) (6), (b) (7)(C) felt very threatened by (b) (6), (b) (7)(C) and came up to me after the meeting in tears saying that (b) (6), (b) (7)(C) year career here was over.
- I talked to (b) (6), (b) (7)(C) and told (b) (6), (b) (7)(C) that it wasn't fair that one person get in trouble for this letter when it was agreed upon by every (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

#### September 2018

- The (b) (6), (b) (7)(C) position was announced and we were asked to send in our resumes if interested.
- I did apply even though my main interest was in being the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
- A recent hire from (b) (6), (b) (7)(C) the (b) (6), (b) (7)(C) who drafted the letter and I applied for the position.
- The (b) (6), (b) (7)(C) has been unofficially performing what would be the duties of the newly created position for many years
- We had to interview with (b) (6), (b) (7)(C) and then (b) (6), (b) (7)(C)
- I asked the (b) (6), (b) (7)(C) how (b) (6), (b) (7)(C) interview with (b) (6), (b) (7)(C) went and (b) (6), (b) (7)(C) said "it was weird (b) (6), (b) (7)(C) didn't ask me anything about what I would do if I got this position, we just talked about family and things. (b) (6), (b) (7)(C) didn't even look at my portfolio"
- During my interview (b) (6), (b) (7)(C) asked me a lot of questions pertaining to the new position. I was very nervous and a few times said that if I would get this position that I would seek out the guidance of the (b) (6), (b) (7)(C) because (b) (6), (b) (7)(C) has done so much setting up (b) (6), (b) (7)(C) events for the lab and our local (b) (6), (b) (7)(C) in the past. In all honesty I was not prepared; one because of what I was

told about the other interview and two because I was more interested in the other (b) (6), (b) (7) position.

#### October 2018

- It was announced that (b) (6), (b) (7)(C) would be the new (b) (6), (b) (7)(C). (b) (6), (b) (7) was relatively new to the lab being there for about (b) (6), (b) (7)(C).
- While (b) (6), (b) (7) was telling me I did not get the position (b) (6), (b) (7) also mentioned that (b) (6), (b) (7)(C) was very disappointed with my interview and said I better be prepared next time I interview with (b) (6), (b) (7)(C) also said that I was the leading candidate for the other (b) (6), (b) (7) position.

#### November 2018

- The (b) (6), (b) (7)(C) position was announced and resumes had to be in by Nov 16
- I applied for the position

#### December 2018

- I interviewed with (b) (6), (b) (7) and (b) (6), (b) (7)(C); I believe it was Dec 7 and Dec 13 respectively
- Two (b) (6), (b) (7)(C) applied for the position and 2 (b) (6), (b) (7)(C) one of them being me and the other was a (b) (6), (b) (7)(C) hired in (b) (6), (b) (7)(C) of 2018

#### (b) (6), (b) (7)(C) 2019

- I interviewed with (b) (6), (b) (7)(C) on 1/21/19. I was very prepared and felt the interview went well
- 1/30/19 (b) (6), (b) (7) comes out to Westlake (b) (6), (b) (7)(C) to inform me that I did not get the position, (b) (6), (b) (7) would not give me a reason as to why
- An email is sent out naming (b) (6), (b) (7)(C) as the new (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

#### (b) (6), (b) (7)(C) 2019

- (b) (6), (b) (7)(C) calls me to (b) (6), (b) (7)(C) office and informs me that (b) (6), (b) (7)(C) is waiting for (b) (6), (b) (7)(C). I asked why (b) (6), (b) (7)(C) was coming in and if that is the case I would like to have HR representation here during this meeting. I was told no. I asked for someone else to sit in the meeting with me or let me record it, I was told no.
- I am here under the assumption that they are going to explain why I did not get the position but that was not the case.
- (b) (6), (b) (7)(C) kept saying we were there to discuss an "altercation" I had, I had NO idea what (b) (6), (b) (7)(C) was talking about because I have not had any "altercations"
- (b) (6), (b) (7)(C) asked if I had talked to (b) (6), (b) (7)(C) I said yes it was a conversation not an altercation
- During this conversation (b) (6), (b) (7)(C) tells me that (b) (6), (b) (7)(C) was really shocked when (b) (6), (b) (7)(C) found out (b) (6), (b) (7)(C) got the position because (b) (6), (b) (7)(C) really doesn't know how to run the day to day activities of the lab. The primary responsibility of the (b) (6), (b) (7)(C). I told (b) (6), (b) (7)(C) how upset and hurt I was that I did not get the position because I have been performing many of the responsibilities of (b) (6), (b) (7)(C) since (b) (6), (b) (7)(C) left. (b) (6), (b) (7)(C) understood and was very kind. I told (b) (6), (b) (7)(C) that I do not begrudge or blame (b) (6), (b) (7)(C) for anything but that since my skills were obviously not good enough to get the position that I would be unable to train (b) (6), (b) (7)(C)
- At this point I feel that I was being ambushed by (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) Why would (b) (6), (b) (7)(C) need to sit in on a so called "discipline" issue?
- I wanted to get an answer to my question as to why I did not get the position. I asked several times. (b) (6), (b) (7)(C) said it was because of my behavior and sited "today and yesterday" as examples. "Today" there was no issue. (b) (6), (b) (7)(C) and I had a conversation I did not create a scene or have any altercations and "yesterday" I had called off because I could not sleep at all the night before because I was so hurt and upset and was in no shape to perform patient care. I do not have an attendance problem
- Then (b) (6), (b) (7)(C) states issues in the past. I had one incident in 2010 and have received stellar reviews ever since.



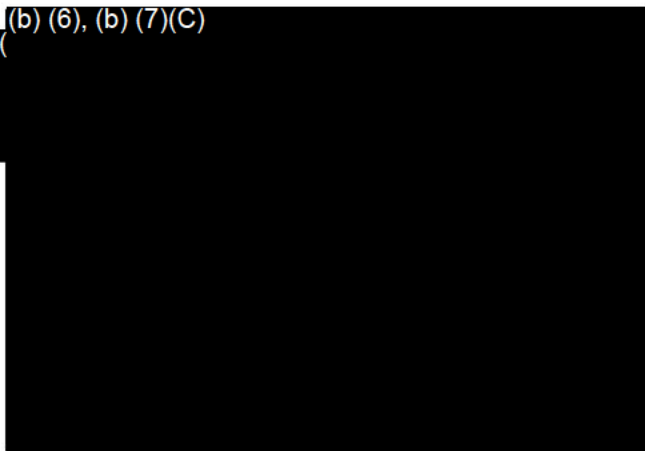
- I say I feel it is unfair that you are going to hold one incident 9 years ago against me
- Then (b) (6), (b) (7)(C) says that (b) (6), (b) (7)(C) ideas were better than mine. I ask what (b) (6), (b) (7)(C) ideas were? How do I know they are not the same ideas I presented? An idea I presented during my interview with (b) (6), (b) (7)(C) has already been implemented.
- I talked about how painful this whole experience had been since I did everything that was asked of me and never received any negative feedback, only positive feedback and gratitude for stepping up. I was very disappointed because during (b) (6), (b) (7)(C) State of the Institute address, (b) (6), (b) (7)(C) talked about how UH want to grow people within the organization to promote from within. I said that I felt that the UH core values had failed me, I feel there was no compassion or integrity in the decision to pass me over for this position. (b) (6), (b) (7)(C) became very upset and ending the meeting, accusing me of questioning (b) (6), (b) (7)(C) integrity. I questioned the integrity of the decision not (b) (6), (b) (7)(C)
- I was upset that (b) (6), (b) (7)(C) thought we had an "altercation" so I called (b) (6), (b) (7)(C) in the evening to make sure things are good because we will have to be working together. (b) (6), (b) (7)(C) informed me that (b) (6), (b) (7)(C) did not feel that our conversation was an altercation at all and that (b) (6), (b) (7)(C) understood how I felt and looked forward to working with me.

## Montgomery, Roberta

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Thursday, July 11, 2019 11:43 AM  
**To:** Montgomery, Roberta  
**Subject:** FW: Follow-Up

(b) (6), (b) (7)(C)



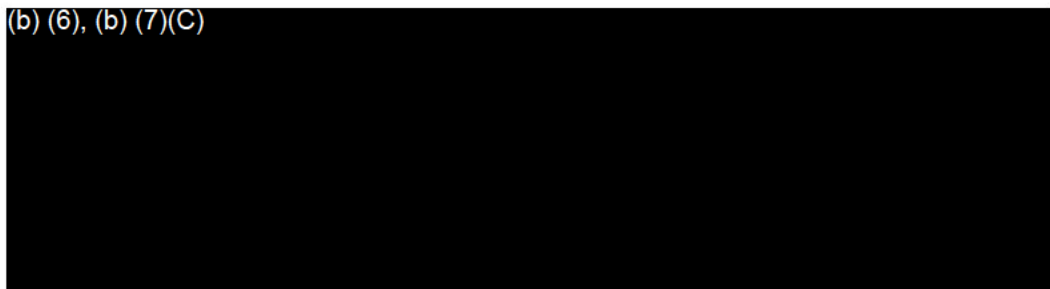
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**From:** (b) (6), (b) (7)(C)  
**Sent:** Thursday, April 18, 2019 3:40 PM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** Follow-Up

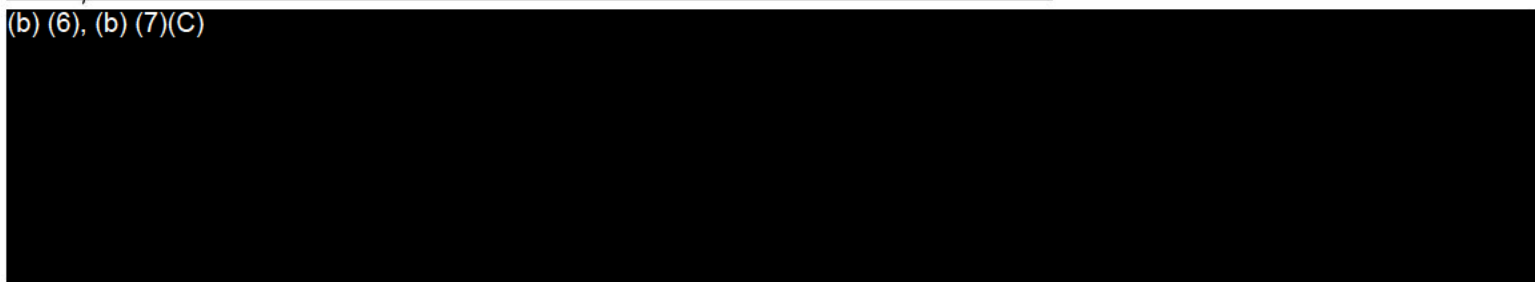
Hi (b) (6), (b) (7)(C)

Thank you for your patience. I completed my investigation. What is your availability to meet in-person so I can discuss the outcome? Thanks!

(b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)





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<https://gcc01.safelinks.protection.outlook.com/?url=www.UHhospitals.org&data=02%7C01%7C%7C1e85b6d0bc0244104fb908d7061664e5%7C5e453ed8e33843bb90754ed5b8a8caa4%7C0%7C1%7C636984565557814503&sdata=VYs0INP45wPP8afSxSqAiCiW2tEEe%2FI%2BNkvvvPd6QWA%3D&reserved=0>.

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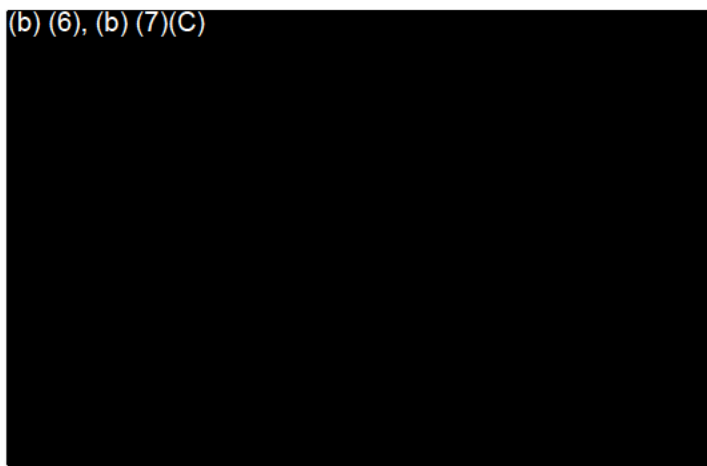
3701.243 prohibit disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law.

## Montgomery, Roberta

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**From:** (b) (6), (b) (7)(C)  
**Sent:** Thursday, July 11, 2019 11:41 AM  
**To:** Montgomery, Roberta  
**Subject:** FW: Checking in

(b) (6), (b) (7)(C)



---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Wednesday, March 13, 2019 9:17 AM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** RE: Checking in

Hi (b) (6), (b) (7)(C)  
I'm still looking into this matter. I will be in touch very shortly. Thank you for your patience.

(b) (6), (b) (7)(C)

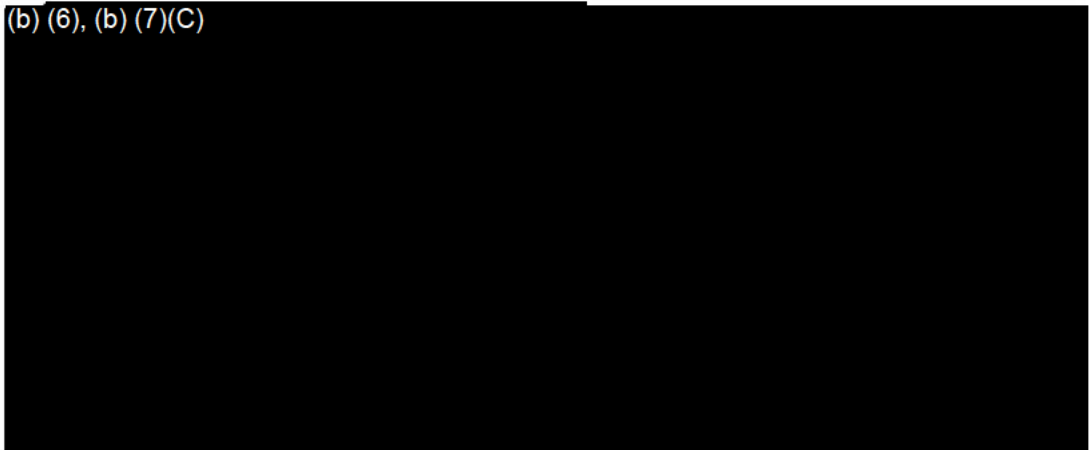
**From:** (b) (6), (b) (7)(C)  
**Sent:** Monday, March 11, 2019 3:16 PM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** Checking in

Hi (b) (6), (b) (7)(C)

I was just checking in, was not sure if I was suppose to contact you or wait to hear from you.

Thanks for everything,

(b) (6), (b) (7)(C)



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<https://gcc01.safelinks.protection.outlook.com/?url=www.UHhospitals.org&data=02%7C01%7C%7Cd564d4a0716b4419b9d008d7061648ce%7C5e453ed8e33843bb90754ed5b8a8caa4%7C0%7C1%7C636984565088619971&sdata=aYCDgQ86jxuGf5DXj02jjkeJZx%2FfgJfW2fOmde1sgjM%3D&reserved=0>.

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Federal and Ohio law protect patient medical information, including psychiatric\_disorders, (H.I.V) test results, A.I.Ds-related conditions, alcohol, and/or drug\_dependence or abuse disclosed in this email. Federal regulation (42 CFR Part 2) and Ohio Revised Code section 5122.31 and 3701.243 prohibit disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law.

---

**From:** Mueller, Zachary J. (Pittsburgh) <Zachary.Mueller@jacksonlewis.com>  
**Sent:** Thursday, July 11, 2019 3:45 PM  
**To:** Montgomery, Roberta  
**Cc:** Smith, Douglas G. (Pittsburgh); (b) (6), (b) (7)(C)  
**Subject:** RE: University Hospitals

Hi Roberta,

We are confirming the details for the Commerce Questionnaire and will send a final copy to you as soon as possible.

In the meantime, I wanted to follow up on our call on Monday, July 8. On that call, you asked University Hospitals to respond to an additional allegation raised by Charging Party (b) (6), (b) (7)(C) contends that in (b) (6), (b) (7)(C) December 2018 interview for the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) told (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) UH seniority “counted more” than (b) (6), (b) (7)(C) superior educational credentials.

UH denies this allegation. (b) (6), (b) (7)(C) specifically denies that (b) (6), (b) (7)(C) would discuss the qualifications of another job candidate during an interview. As for (b) (6), (b) (7)(C) informed (b) (6), (b) (7)(C) that UH would make its decision based on all relevant factors, including the candidates’ respective skills, experience, education, and training. (b) (6), (b) (7)(C) did not tell (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) UH seniority would trump—or cancel out—(b) (6), (b) (7)(C) credentials in other areas, including (b) (6), (b) (7)(C) educational background.

As we noted in our June 28, 2019 position statement, (b) (6), (b) (7)(C) had more experience in (b) (6), (b) (7)(C) than all the other candidates combined. And (b) (6), (b) (7)(C) was the only candidate with experience (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

In short, UH considered all relevant qualifications—not just education levels or UH seniority—and determined that (b) (6), (b) (7)(C) was the best candidate for the (b) (6), (b) (7)(C) position.

As always, please don’t hesitate to reach out with any questions or concerns.

**Zachary J. Mueller**  
Attorney at Law  
Jackson Lewis P.C.  
Liberty Center  
1001 Liberty Avenue  
Suite 1000  
Pittsburgh, PA 15222  
Direct: (412) 338-5144 | Main: (412) 232-0404 | Mobile: (484) 269-7273  
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**From:** Montgomery, Roberta <Roberta.Montgomery@nrlb.gov>  
**Sent:** Wednesday, July 10, 2019 4:52 PM  
**To:** Mueller, Zachary J. (Pittsburgh) <Zachary.Mueller@jacksonlewis.com>  
**Subject:** University Hospitals



**I have attached a Questionnaire on Commerce which I need completed and returned to this office asap, but no later than Friday, July 12, 2019.**

*Roberta A. Montgomery, Field Examiner  
National Labor Relations Board  
1695 AJC Federal Office Building  
1240 E. 9<sup>th</sup> Street  
Cleveland, Ohio 44199  
(216) 303-7371  
[roberta.montgomery@nrlrb.gov](mailto:roberta.montgomery@nrlrb.gov)*

---

**From:** Mueller, Zachary J. (Pittsburgh) <Zachary.Mueller@jacksonlewis.com>  
**Sent:** Friday, July 12, 2019 3:31 PM  
**To:** Montgomery, Roberta  
**Cc:** Smith, Douglas G. (Pittsburgh); (b) (6), (b) (7)(C)  
**Subject:** RE: University Hospitals

Hi Roberta,

I apologize, but we're still waiting for commerce data from UH. We will return the completed form as soon as we have the data. We can confirm that we are not contesting the Board's jurisdiction in this case. Thank you.

**Zachary J. Mueller**  
Attorney at Law  
**Jackson Lewis P.C.**  
Liberty Center  
1001 Liberty Avenue  
Suite 1000  
Pittsburgh, PA 15222  
Direct: (412) 338-5144 | Main: (412) 232-0404 | Mobile: (484) 269-7273  
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---

**From:** Montgomery, Roberta <Roberta.Montgomery@nrlrb.gov>  
**Sent:** Wednesday, July 10, 2019 4:52 PM  
**To:** Mueller, Zachary J. (Pittsburgh) <Zachary.Mueller@jacksonlewis.com>  
**Subject:** University Hospitals

**I have attached a Questionnaire on Commerce which I need completed and returned to this office asap, but no later than Friday, July 12, 2019.**

*Roberta A. Montgomery, Field Examiner*  
*National Labor Relations Board*  
*1695 AJC Federal Office Building*  
*1240 E. 9<sup>th</sup> Street*  
*Cleveland, Ohio 44199*  
*(216) 303-7371*  
[\*roberta.montgomery@nrlrb.gov\*](mailto:roberta.montgomery@nrlrb.gov)

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DETROIT MI	MINNEAPOLIS MN	PROVIDENCE RI	WHITE PLAINS NY
GRAND RAPIDS MI			

\*through an affiliation with Jackson Lewis P.C., a Law Corporation

MY DIRECT DIAL IS: (412) 338-5144  
MY EMAIL ADDRESS IS: [ZACHARY.MUELLER@JACKSONLEWIS.COM](mailto:ZACHARY.MUELLER@JACKSONLEWIS.COM)

September 10, 2019

**VIA ELECTRONIC FILING**

Roberta Montgomery  
Field Examiner  
National Labor Relations Board  
Region 8  
1240 E. 9th Street, Suite 1695  
Cleveland, Ohio 44199-2086

Re: University Hospitals  
Case No. 08-CA-241386

Dear Ms. Montgomery:

This letter is in response to our telephone conversation on August 29, 2019. In accordance with the information request you made on that call, we are providing you with additional information on behalf of University Hospitals (UH) to assist the Region in its investigation of the unfair labor practice charge filed by (b) (6), (b) (7)(C). This correspondence is submitted solely for informational purposes to aid the Region's investigation. UH reserves the right to submit additional information that may supplement or modify the information provided. In submitting this correspondence, UH does not waive any legal defenses or claims that it may have with respect to (b) (6), (b) (7)(C) claims.

1. (b) (6), (b) (7)(C) **Personnel File.** UH attached relevant portions of (b) (6), (b) (7)(C) personnel file as Exhibits B, C, D, F, and G to its June 28, 2019 position statement. (b) (6), (b) (7)(C) full personnel file is reproduced and attached to this letter as Exhibit A.
2. **Interview Notes.** (b) (6), (b) (7)(C) notes from the interviews of (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) are attached as Exhibit B. Please note that (b) (6), (b) (7)(C) original notes are in longhand. We have transcribed them for ease of review. The transcribed notes appear directly behind the handwritten notes.

(b) (6), (b) (7)(C) took notes directly on the candidates' resumes. We have included (b) (6), (b) (7)(C) notes, for both (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) as Exhibit C.

3. (b) (6), (b) (7)(C) **Selection Process.** In its June 28 position statement, UH detailed at length (1) its process for filling the (b) (6), (b) (7)(C) position; and (2) its determination that (b) (6), (b) (7)(C) was the superior candidate for the (b) (6), (b) (7)(C) job. See Position Statement at 3-5.

In brief, (b) (6), (b) (7)(C) distinguished (b) (6), (b) (7)(C) from the three other candidates for the (b) (6), (b) (7)(C) position through (b) (6), (b) (7)(C) education, training, experience, and performance. This was reflected in (b) (6), (b) (7)(C) review, in which management not only praised (b) (6), (b) (7)(C) technical skills as a (b) (6), (b) (7)(C) but also noted that (b) (6), (b) (7)(C) had already proven (b) (6), (b) (7)(C) to be a (b) (6), (b) (7)(C). See Ex. C to UH Position Statement. Further, unlike most of (b) (6), (b) (7)(C) peers, who held only (b) (6), (b) (7)(C) had a (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) one of the nation's top-ranked (b) (6), (b) (7)(C) programs. (b) (6), (b) (7)(C) also had a wealth of experience in the field, with nearly (b) (6), (b) (7)(C) years of practice under (b) (6), (b) (7)(C) belt, including over (b) (6), (b) (7)(C) years of experience as a (b) (6), (b) (7)(C) (b) (6), (b) (7)(C).

(b) (6), (b) (7)(C) in short, had superior training and experience, and had shown that (b) (6), (b) (7)(C) could both lead by example and take charge of the stressful situations that often arise in the (b) (6), (b) (7)(C) (b) (6). Indeed, (b) (6), (b) (7)(C) had more experience in (b) (6), (b) (7)(C) than all the other candidates combined, and (b) (6), (b) (7)(C) the only one with experience (b) (6), (b) (7)(C).

Further, it was not just management who took notice of (b) (6), (b) (7)(C) suitability for the (b) (6), (b) (7)(C) position. (b) (6), (b) (7)(C) in discussions with (b) (6), (b) (7)(C) about the job posting, said that (b) (6), (b) (7)(C) was nervous when (b) (6), (b) (7)(C) found out that (b) (6), (b) (7)(C) had applied for the position because of (b) (6), (b) (7)(C) extensive qualifications.

Finally, after meeting with the applicants, the three interviewers—(b) (6), (b) (7)(C), and (b) (6), (b) (7)(C)—agreed that the two best candidates were (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) in turn, interviewed the best of all the candidates, and (b) (6), (b) (7)(C) qualifications were easily the most impressive. While (b) (6), (b) (7)(C) was a skilled (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) education, training, and experience surpassed (b) (6), (b) (7)(C) own. (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) as a (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) had already served in several management positions. In the end, (b) (6), (b) (7)(C) superior qualifications—especially (b) (6), (b) (7)(C) past leadership experience—made (b) (6), (b) (7)(C) the most qualified candidate for (b) (6), (b) (7)(C).

UH promoted (b) (6), (b) (7)(C) to (b) (6), (b) (7)(C) in (b) (6), (b) (7)(C) 2019. Since then, (b) (6), (b) (7)(C) has succeeded in (b) (6), (b) (7)(C) new role. In a peer review in (b) (6), (b) (7)(C) 2019, a coworker emphasized (b) (6), (b) (7)(C) leadership skills, calling (b) (6), (b) (7)(C) “[a] natural leader who commands the respect of (b) (6), (b) (7)(C) team members by according to them the same amount of respect.” See Ex. F to UH Position Statement. This coworker also had high praise for (b) (6), (b) (7)(C) “excellent communication skills” and (b) (6), (b) (7)(C) “extremely professional” demeanor. *Id.* (b) (6), (b) (7)(C) was also lauded for “set[ting] a good example by ensuring that (b) (6), (b) (7)(C) never loses (b) (6), (b) (7)(C) composure even in the most

stressful situations.” *Id.* (b) (6), (b) (7)(C) leadership, the coworker noted, had “improved intra-team relationships” and “helped improve team productivity.” *Id.* These accolades were echoed by management, who noted how (b) (6), (b) (7)(C) had successfully transitioned to the role of (b) (6), (b) (7)(C), displaying superior leadership ability. *See* Ex. G to UH Position Statement.

\* \* \*

We trust that this letter fully responds to your requests and demonstrates the lack of both legal and factual merit to (b) (6), (b) (7)(C) claims against UH. If you need more information or if you would like to discuss this matter further, please feel free to contact me directly.

Very truly yours,

JACKSON LEWIS P.C.



Zachary J. Mueller

Attachments



~~position~~ position. Love job, <sup>organize</sup> ~~organize~~ day well. Trust & L. there to help  
come in early, stay late.

Keep morale up - birthday, dip day - celebrate them  
- too much time wasted in back room.

Integrity. strive to do very best, won't let them be  
unless satisfied

Positivity. Love working w/ everybody - lead by example  
delegate - go along w/ changes, middle ground.

Compassion - Golden rule. Confidant for pts, warm  
excellence. Strive for perfection, excellent results  
being fair - treating everyone the same.

Team work - team players. will stay, stop to do stat. Like helpint peers  
- remember needing help in past early in career.

① Found desk forgot to call, no one wanted to take pt. - assigned staff to get  
pt, look up hx, put in prior study. Apologized to pt

⑤ Working Saturdays, late shift, going to units all time when others wouldn't.  
- realized that Monday was better  
change is not always pleasant, but has to be done. Life changes, embrace staff.  
overcome, adapt. Get through it

① Seek help, look up online. TAVR - text (b) (6), (b) (7)(C) when called (b) (6), (b) (7)(C)

① email people in our field, google leadership stuff.

① Depend on situation - Observe disagree. Leave situation, if willing to  
discuss. find common ground

③ Patience, wisdom, communication, knowledge

mp (b) (6), (b) (7)(C) communication -  
start w/ (b) (6), (b) (7)(C)  
CE staff nervous.

(b) (6), (b) (7)(C)  
(b) (7)(C)

Be positive  
Lead by example  
Stepping up. Vign printer  
Respect, come to (b) (6), (b) (7)(C) - (b) (6), (b) (7)(C)

① Research - depends on what  
person's best decision for [REDACTED]  
" " " " for Lab as whole

② Grow, taken under watch, speak w/ [REDACTED], help w/ situation

pt satisfaction - measure  
↑ recognition

UH- [REDACTED] lab experience. (b) (6), (b) (7)(C) [REDACTED] but grant resources

(b) (6), (b) (7)(C)

Why: Position: Love job, organizes day well. Trust to be there to help. Come in early, stay late.

Keep morale up, birthdays, dip day-celebrate them

Too much time wasted in back room

MD-(b) (6), (b) (7)(C) communication- starts with (b) (6), (b) (7)(C) Critical events make staff nervous.

(b) (6), (b) (7)(C)

Tries to be positive (b) (6), (b) (7)(C) Lead by example, steps up by checking printers

Respect, people come to (b) (6), (b) (7)(C) trust (b) (6), (b) (7)(C)

Integrity: strive to do very best, won't let things go unless satisfied

Diversity: Love working with everybody- lead by example. Delegate- go along with changes, find middle ground

Compassion: golden rule- comfort for patients, keep them warm

Excellence: strive for perfection, excellence results

Being fair, treating everyone the same

Teamwork: team player, willing to stay, step up to do stat. Like helping peers. (b) (6), (b) (7)(C) remembers needing help in past early in career.

1. Front desk forgets to call, no one wanted to take patient. Assigned staff to get patient. Look up history, put in prior study for (b) (6), (b) (7)(C) apologized to patient.

5. working Saturdays, late shift, going to units all the time when others wouldn't. Realized Mondays were better. Change is not always pleasant, but has to be done. Life changes, convince staff. Overcome, adapt, get through it.

7. Seek help, look up online. TAVR-text (b) (6), (b) (7)(C) when called in

10. email. People in our field, google leadership staff

14. Depends on situation, agree to disagree. Leave situation, if willing to discuss, find common ground.

15. Patience, wisdom, communication, knowledge

16. Research, depends on what. Pros/cons, best decision for (b) (6), (b) (7)(C) Best decision for lab as a whole

21. Grow, take under wing, speak with (b) (6), (b) (7)(C) help with strain

Patient satisfaction-measure, increased recognition

UH (b) (6), (b) (7)(C) experience, (b) (6), (b) (7)(C), but great resource

why: Primarily done in past, skills, responsibilities  
- reviewed [REDACTED]

police/prosecutors - correct, trained new staff / dialogue, educate, strain  
functional <sup>social</sup> intelligence. (b) (6), (b) (7)(C) learned how to handle  
difficult people.  
learning experience - (b) (6), (b) (7)(C) - mjs

Avoided: apparent / explicit differences in background, thoughts, learn  
excellence - very best quality - strive for humans w/ limitations  
teamwork - come together or won't accomplish, ask if stuck and help  
Integrity: very best to be honest. (b) (6), (b) (7)(C) nature. Do every thing, upright.  
Compassion: love / care for human worth / value. incredibly value

6. (b) (6), (b) (7)(C) challenging employees - loud - projected strong voices - pulled into private room - be respectful - pointed back to service excellence guidelines
5. formal review have to abide by policies. If had to be done, part of policy. Had to abide too
7. reach out to others who do. (b) (6), (b) (7)(C) example - abuse/harassment
  - HR issues, complex situation - report it to HR
  - just because mwr. don't know anything.
11. have creativity. reach out to team. her idea - what do you think
  - participative mwr. ask staff. (b) (6), (b) (7)(C) pose questions
13. best - active listening. <sup>understanding</sup> help both sides. full picture
  - you have to understand before offering solutions
14. understand what need to accomplish, info, involve team, pull on resources.
  - (b) (6), (b) (7)(C) - look at all possibilities
21. (b) (6), (b) (7)(C) encourage to go to school.
  - Review exams
  - no class. build up. video media way. -



(b) (6), (b) (7)(C)

Why: Primarily done in past, skills and responsibilities. Reviewed (b) (6)

Policies and procedures current, trained new staff, delegate, educate, strain

Emotional/social intelligence- (b) (6), (b) (7)(C), learned how to handle difficult people

Learning experience- (b) (6), (b) (7)(C) meeting

Diversity: appreciate and respect differences in background, thoughts, learn

Excellence: very best, quality. Strive for- humans with limitations

Teamwork: come together or won't accomplish, ask if staff need help

Integrity: very best to be honest, (b) (6) nature. Do everything upright

Compassion: love/care patients. Human worth/value. Incredible value.

1. (b) (6), (b) (7)(C) challenging employees, loud, projected strong voices. Pulled into private room- be respectful- pointed back to service excellence guidelines
5. formal MGR- have to abide by rules to. If had to be done, part of policy. Had to abide too
7. reach out to others who do (b) (6) example- class/online. HR issues-complex situation- reach out to HR. Just because a MGR, don't know everything
11. have creativity. Reach out to team. Here is an idea- what do you think. Participative management, ask staff. (b) (6), (b) (7)(C) pose questions
15. lost art- "listening", understanding. Hear both side, full picture. You have to understand before offering solutions.
16. understand what needs to be accomplished, info, invite team, pull on resources.

(b) (6), (b) (7)(C). Looked at all possibilities

21. (b) (6), (b) (7)(C)- encouraging to go to school. Review exams. Compliments build up. Diplomatic way

**SUBPOENA****UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD****(b) (6), (b) (7)(C), (b) (7)(D)**To University Hospitals**(b) (6), (b) (7)(C)**As requested by Roberta Montgomery, on behalf of the General Counselwhose address is 1240 East 9th Street, AJC Federal Building, Ste 1695, Cleveland, Ohio 44199-8086  
(Street) (City) (State) (ZIP)YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE the Regional Director or his/her designee  
of the National Labor Relations Boardat 1240 East 9th Street, AJC Federal Building, Ste 1695in the City of Cleveland, Ohioon Thursday, October 3, 2019 at 10:00 a.m. or any adjournedor rescheduled date to testify in University Hospitals  
08-CA-241386

(Case Name and Number)

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board's E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board's E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board's Rules and Regulations, 29 C.F.R. Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R. Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

**A-1-16LMA3X**

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at Cleveland, OhioDated: September 24, 2019

 A handwritten signature in cursive script that reads "John F. Ring".
   
John Ring, Chairman

**NOTICE TO WITNESS.** Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena in federal court.

A-1-16LMA3X

**RETURN OF SERVICE**

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

(Check  
method  
used.)

- ☐ by person
- ☐ by certified mail
- ☐ by registered mail
- ☐ by telegraph
- ☐ by leaving copy at principal  
office or place of business  
at

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

on the named person on

\_\_\_\_\_  
(Month, day, and year)

\_\_\_\_\_  
(Name of person making service)

\_\_\_\_\_  
(Official title, if any)

**CERTIFICATION OF SERVICE**

I certify that named person was in  
attendance as a witness at

\_\_\_\_\_  
on

(Month, day or days, and year)

\_\_\_\_\_  
(Name of person certifying)

\_\_\_\_\_  
(Official title)

**SUBPOENA****UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD**

(b) (6), (b) (7)(C), (b) (7)(D)

To University Hospitals(b) (6), (b) (7)(C)As requested by Roberta Montgomery, on behalf of the General Counselwhose address is 1240 East 9th Street, AJC Federal Building, Ste 1695, Cleveland, Ohio 44199-2086  
(Street) (City) (State) (ZIP)YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE the Regional Director or his/her designee  
of the National Labor Relations Boardat 1240 East 9th Street, AJC Federal Building, Ste 1695in the City of Cleveland, Ohioon Thursday, October 3, 2019 at 10:00 a.m. or any adjournedor rescheduled date to testify in University Hospitals  
08-CA-241386

(Case Name and Number)

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**A-1-16LMA79**

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at CLEVELAND, OHIODated: September 24, 2019

 A handwritten signature in black ink that reads "John F. Ring".
 

**John Ring, Chairman**

**NOTICE TO WITNESS.** Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is mandatory in that failure to supply the information may cause the NLRB to seek enforcement of the subpoena in federal court.



RETURN OF SERVICE

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

(Check method used.)

- ☐ by person
- ☐ by certified mail
- ☐ by registered mail
- ☐ by telegraph
- ☐ by leaving copy at principal office or place of business at

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---

---

on the named person on

---

(Month, day, and year)

---

(Name of person making service)

---

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

---

on

(Month, day or days, and year)

---

(Name of person certifying)

---

(Official title)

**SUBPOENA****UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD**

(b) (6), (b) (7)(C), (b) (7)(D)

To University Hospitals(b) (6), (b) (7)(C)As requested by Roberta Montgomery, on behalf of the General Counselwhose address is 1240 East 9th Street, AJC Federal Building, Ste 1695, Cleveland, Ohio 44199-2086  
(Street) (City) (State) (ZIP)YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE the Regional Director or his/her designee  
of the National Labor Relations Boardat 1240 East 9th Street, AJC Federal Building, Ste 1695in the City of Cleveland, Ohioon Thursday, October 3, 2019 at 10:00 a.m. or any adjournedor rescheduled date to testify in University Hospitals  
08-CA-241386

(Case Name and Number)

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**A-1-16LMAAL**

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at CLEVELAND, OHDated: September 24, 2019

 A handwritten signature in cursive script that reads "John F. Ring".
 

**John Ring, Chairman**

**NOTICE TO WITNESS.** Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

**PRIVACY ACT STATEMENT**

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**RETURN OF SERVICE**

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

(Check  
method  
used.)

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- ☐ by leaving copy at principal  
office or place of business  
at

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

on the named person on

\_\_\_\_\_  
(Month, day, and year)

\_\_\_\_\_  
(Name of person making service)

\_\_\_\_\_  
(Official title, if any)

**CERTIFICATION OF SERVICE**

I certify that named person was in  
attendance as a witness at

\_\_\_\_\_  
on

(Month, day or days, and year)

\_\_\_\_\_  
(Name of person certifying)

\_\_\_\_\_  
(Official title)

**SUBPOENA DUCES TECUM****UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD****(b) (6), (b) (7)(C), (b) (7)(D)**To University Hospitals**(b) (6), (b) (7)(C)**As requested by Roberta Montgomery, on behalf of the General Counselwhose address is 1240 East 9th Street, AJC Federal Building, Ste 1695, Cleveland, Ohio 44199-2086  
(Street) (City) (State) (ZIP)YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE the Regional Director or his/her designee

of the National Labor Relations Board

at 1240 East 9th Street, AJC Federal Buildingin the City of Cleveland, Ohioon Thursday, October 3, 2019 at 10:00 a.m. or any adjournedor rescheduled date to testify in University Hospitals  
08-CA-241386

(Case Name and Number)

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

**SEE ATTACHMENT**

If you do not intend to comply with the subpoena, within 5 days (excluding intermediate Saturdays, Sundays, and holidays) after the date the subpoena is received, you must petition in writing to revoke the subpoena. Unless filed through the Board's E-Filing system, the petition to revoke must be received on or before the official closing time of the receiving office on the last day for filing. If filed through the Board's E-Filing system, it may be filed up to 11:59 pm in the local time zone of the receiving office on the last day for filing. Prior to a hearing, the petition to revoke should be filed with the Regional Director; during a hearing, it should be filed with the Hearing Officer or Administrative Law Judge conducting the hearing. See Board's Rules and Regulations, 29 C.F.R. Section 102.31(b) (unfair labor practice proceedings) and/or 29 C.F.R. Section 102.66(c) (representation proceedings) and 29 C.F.R. Section 102.111(a)(1) and 102.111(b)(3) (time computation). Failure to follow these rules may result in the loss of any ability to raise objections to the subpoena in court.

**B-1-16LMB37**

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at CLEVELAND, OHDated: September 24, 2019

 A handwritten signature in dark ink, reading "John F. Ring".
   
**John Ring, Chairman**

**NOTICE TO WITNESS.** Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

**PRIVACY ACT STATEMENT**

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RETURN OF SERVICE

I certify that, being a person over 18 years of age, I duly served a copy of this subpoena

(Check method used.)

- ☐ by person
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- ☐ by registered mail
- ☐ by telegraph
- ☐ by leaving copy at principal office or place of business at

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

on the named person on

\_\_\_\_\_  
(Month, day, and year)

\_\_\_\_\_  
(Name of person making service)

\_\_\_\_\_  
(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

\_\_\_\_\_  
on

(Month, day or days, and year)

\_\_\_\_\_  
(Name of person certifying)

\_\_\_\_\_  
(Official title)

**SUBPOENA DUCES TECUM****UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD**Custodian of Records  
To University Hospitals(b) (6), (b) (7)(C)As requested by Roberta Montgomery, on behalf of the General Counselwhose address is 1240 East 9th Street, AJC Federal Building, Ste 1695, Cleveland, Ohio 44199-2086  
(Street) (City) (State) (ZIP)YOU ARE HEREBY REQUIRED AND DIRECTED TO APPEAR BEFORE the Regional Director or his/her designee

of the National Labor Relations Board

at 1240 East 9th Street, AJC Federal Building, Ste 1695in the City of Cleveland, Ohioon Thursday, October 3, 2019 at 10:00 a.m. or any adjournedor rescheduled date to testify in University Hospitals  
08-CA-241386

(Case Name and Number)

And you are hereby required to bring with you and produce at said time and place the following books, records, correspondence, and documents:

**SEE ATTACHMENT**

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**B-1-16LMAL5**

Under the seal of the National Labor Relations Board, and by direction of the Board, this Subpoena is

Issued at CLEVELAND, OHDated: September 24, 2019

 A handwritten signature in dark ink, reading "John F. Ring".
   
John Ring, Chairman

**NOTICE TO WITNESS.** Witness fees for attendance, subsistence, and mileage under this subpoena are payable by the party at whose request the witness is subpoenaed. A witness appearing at the request of the General Counsel of the National Labor Relations Board shall submit this subpoena with the voucher when claiming reimbursement.

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(Check method used.)

- ☐ by person
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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

on the named person on

\_\_\_\_\_

(Month, day, and year)

\_\_\_\_\_

(Name of person making service)

\_\_\_\_\_

(Official title, if any)

CERTIFICATION OF SERVICE

I certify that named person was in attendance as a witness at

\_\_\_\_\_

on

(Month, day or days, and year)

\_\_\_\_\_

(Name of person certifying)

\_\_\_\_\_

(Official title)

**From:** UPS Quantum View <pkginfo@ups.com>  
**Sent:** Wednesday, September 25, 2019 9:47 AM  
**To:** Montgomery, Roberta  
**Subject:** UPS Delivery Notification, Tracking Number 1ZA4E7141392719692



## Your package has been delivered.

**Delivery Date:** Wednesday, 09/25/2019  
**Delivery Time:** 09:25 AM

At the request of NATIONAL LABOR RELATIONS BOARD this notice alerts you that the status of the shipment listed below has changed.

## Shipment Detail

<b>Tracking Number:</b>	<a href="#">1ZA4E7141392719692</a> (b) (6), (b) (7)(C), (b) (7)(D)
<b>Ship To:</b>	University Hospitals (b) (6), (b) (7)(C) US
<b>UPS Service:</b>	UPS NEXT DAY AIR SAVER
<b>Number of Packages:</b>	1
<b>Shipment Type:</b>	Letter
<b>Delivery Location:</b>	INSIDE DELIVERY (b) (6), (b) (7)(C)
<b>Reference Number 1:</b>	Subpoena



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[Review the UPS Privacy Notice](#)

[For Questions, Visit Our Help and Support Center](#)



**From:** UPS Quantum View <pkginfo@ups.com>  
**Sent:** Wednesday, September 25, 2019 9:47 AM  
**To:** Montgomery, Roberta  
**Subject:** UPS Delivery Notification, Tracking Number 1ZA4E7141391788931



## Your package has been delivered.

**Delivery Date:** Wednesday, 09/25/2019  
**Delivery Time:** 09:25 AM

At the request of NATIONAL LABOR RELATIONS BOARD this notice alerts you that the status of the shipment listed below has changed.

## Shipment Detail

<b>Tracking Number:</b>	<b>1ZA4E7141391788931</b> (b) (6), (b) (7)(C), (b) (7)(D)
<b>Ship To:</b>	University Hospital (b) (6), (b) (7)(C) [Redacted] US
<b>UPS Service:</b>	UPS NEXT DAY AIR SAVER
<b>Number of Packages:</b>	1
<b>Shipment Type:</b>	Letter
<b>Delivery Location:</b>	INSIDE DELIVERY (b) (6), (b) (7)(C) [Redacted]
<b>Reference Number 1:</b>	Subpoena



[Download the UPS mobile app](#)

**From:** UPS Quantum View <pkginfo@ups.com>  
**Sent:** Wednesday, September 25, 2019 9:47 AM  
**To:** Montgomery, Roberta  
**Subject:** UPS Delivery Notification, Tracking Number 1ZA4E7141390488721



## Your package has been delivered.

**Delivery Date:** Wednesday, 09/25/2019  
**Delivery Time:** 09:25 AM

At the request of NATIONAL LABOR RELATIONS BOARD this notice alerts you that the status of the shipment listed below has changed.

## Shipment Detail

<b>Tracking Number:</b>	<u><a href="#">1ZA4E7141390488721</a></u> (b) (6), (b) (7)(C), (b) (7)(D)
<b>Ship To:</b>	University Hospital (b) (6), (b) (7)(C) US
<b>UPS Service:</b>	UPS NEXT DAY AIR SAVER
<b>Number of Packages:</b>	1
<b>Shipment Type:</b>	Letter
<b>Delivery Location:</b>	INSIDE DELIVERY (b) (6), (b) (7)(C)
<b>Reference Number 1:</b>	Subpoena



[Download the UPS mobile app](#)

**From:** UPS Quantum View <pkginfo@ups.com>  
**Sent:** Wednesday, September 25, 2019 9:47 AM  
**To:** Montgomery, Roberta  
**Subject:** UPS Delivery Notification, Tracking Number 1ZA4E7141392430109



## Your package has been delivered.

**Delivery Date:** Wednesday, 09/25/2019

**Delivery Time:** 09:25 AM

At the request of NATIONAL LABOR RELATIONS BOARD this notice alerts you that the status of the shipment listed below has changed.

## Shipment Detail

<b>Tracking Number:</b>	<u><a href="#">1ZA4E7141392430109</a></u> Custodian of Records University Hospital (b) (6), (b) (7)(C)
<b>Ship To:</b>	[REDACTED] US
<b>UPS Service:</b>	UPS NEXT DAY AIR SAVER
<b>Number of Packages:</b>	1
<b>Shipment Type:</b>	Letter
<b>Delivery Location:</b>	INSIDE DELIVERY (b) (6), (b) (7)(C)
<b>Reference Number 1:</b>	Subpoena



[Download the UPS mobile app](#)



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**From:** Mueller, Zachary J. (Pittsburgh) <Zachary.Mueller@jacksonlewis.com>  
**Sent:** Wednesday, October 2, 2019 8:57 AM  
**To:** Montgomery, Roberta  
**Cc:** Smith, Douglas G. (Pittsburgh)  
**Subject:** RE: University Hospitals  
**Attachments:** UH Cleveland Medical Center to HR MCCO Bldg 9.2017.pdf

Good Morning Roberta,

As a follow-up to our call yesterday afternoon, I wanted to confirm whether we can meet for tomorrow's interviews at UH's Human Resources office. Directions to the HR center are attached here.

As you know, the subpoenas indicate a start time of 10 a.m. Given that each of the three individuals will be interviewed separately, please let me know if I can advise them of specific start times for their respective interviews.

Thank you, Roberta.

**Zachary J. Mueller**

Attorney at Law

**Jackson Lewis P.C.**

Liberty Center

1001 Liberty Avenue

Suite 1000

Pittsburgh, PA 15222

Direct: (412) 338-5144 | Main: (412) 232-0404 | Mobile: (484) 269-7273

[Zachary.Mueller@jacksonlewis.com](mailto:Zachary.Mueller@jacksonlewis.com) | [www.jacksonlewis.com](http://www.jacksonlewis.com)

---

**From:** Montgomery, Roberta <Roberta.Montgomery@nrlrb.gov>  
**Sent:** Wednesday, July 10, 2019 4:52 PM  
**To:** Mueller, Zachary J. (Pittsburgh) <Zachary.Mueller@jacksonlewis.com>  
**Subject:** University Hospitals

**I have attached a Questionnaire on Commerce which I need completed and returned to this office asap, but no later than Friday, July 12, 2019.**

*Roberta A. Montgomery, Field Examiner  
National Labor Relations Board  
1695 AJC Federal Office Building  
1240 E. 9<sup>th</sup> Street  
Cleveland, Ohio 44199  
(216) 303-7371  
[roberta.montgomery@nrlrb.gov](mailto:roberta.montgomery@nrlrb.gov)*

---

From: (b) (6), (b) (7)(C)  
Sent: Monday, October 29, 2018 11:35 AM  
To: (b) (6), (b) (7)(C)  
Subject: MEMO- Job Posting- (b) (6), (b) (7)(C)

DATE: October 29, 2018

TO: (b) (6), (b) (7)(C)

FROM: (b) (6), (b) (7)(C)

RE: Intra department Job Opportunity – (b) (6), (b) (7)(C)

Hello,

We are pleased to announce an opportunity for a (b) (6), (b) (7)(C) at UH Cleveland Medical Center. This would be a first shift position, at UH Cleveland Medical Center, Monday through Friday with rotating weekends, mid-shift and locations as training needs dictate. The job description including the position qualifications is attached for your reference. This opportunity will report directly to (b) (6), (b) (7)(C).  
(b) (6), (b) (7)(C).

To express interest, please forward your resume through email to (b) (6), (b) (7)(C) by November 16, 2018.

Pease don't hesitate to contact (b) (6), (b) (7)(C) with questions. Thanks!

Visit us at [www.UHhospitals.org](http://www.UHhospitals.org).

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Federal and Ohio law protect patient medical information, including psychiatric\_disorders, (H.I.V) test results, A.I.Ds-related conditions, alcohol, and/or drug\_dependence or abuse disclosed in this email. Federal regulation (42 CFR Part 2) and Ohio Revised Code section 5122.31 and 3701.243 prohibit disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law.

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**From:** Mueller, Zachary J. (Pittsburgh) <Zachary.Mueller@jacksonlewis.com>  
**Sent:** Wednesday, October 2, 2019 9:31 AM  
**To:** Montgomery, Roberta  
**Cc:** Smith, Douglas G. (Pittsburgh)  
**Subject:** RE: University Hospitals

Hi Roberta,

I will send any additional responsive documents today. Frankly, I don't think there is going to be much more than the records we already produced on June 28 and September 10. But again, I will confirm.

Can you please confirm that the interviews will be taking place at UH's Human Resources office?

Thank you.

**Zachary J. Mueller**  
Attorney at Law  
**Jackson Lewis P.C.**  
Liberty Center  
1001 Liberty Avenue  
Suite 1000  
Pittsburgh, PA 15222  
Direct: (412) 338-5144 | Main: (412) 232-0404 | Mobile: (484) 269-7273  
[Zachary.Mueller@jacksonlewis.com](mailto:Zachary.Mueller@jacksonlewis.com) | [www.jacksonlewis.com](http://www.jacksonlewis.com)

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**From:** Montgomery, Roberta <Roberta.Montgomery@nrlb.gov>  
**Sent:** Wednesday, October 2, 2019 9:06 AM  
**To:** Mueller, Zachary J. (Pittsburgh) <Zachary.Mueller@jacksonlewis.com>  
**Subject:** RE: University Hospitals

Could you provide the documents requested in the duces tecum today so that I can review them

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**From:** Mueller, Zachary J. (Pittsburgh) <[Zachary.Mueller@jacksonlewis.com](mailto:Zachary.Mueller@jacksonlewis.com)>  
**Sent:** Wednesday, October 2, 2019 8:57 AM  
**To:** Montgomery, Roberta <[Roberta.Montgomery@nrlb.gov](mailto:Roberta.Montgomery@nrlb.gov)>  
**Cc:** Smith, Douglas G. (Pittsburgh) <[Douglas.Smith@jacksonlewis.com](mailto:Douglas.Smith@jacksonlewis.com)>  
**Subject:** RE: University Hospitals

Good Morning Roberta,

As a follow-up to our call yesterday afternoon, I wanted to confirm whether we can meet for tomorrow's interviews at UH's Human Resources office. Directions to the HR center are attached here.

As you know, the subpoenas indicate a start time of 10 a.m. Given that each of the three individuals will be interviewed separately, please let me know if I can advise them of specific start times for their respective interviews.

Thank you, Roberta.

**Zachary J. Mueller**

Attorney at Law

**Jackson Lewis P.C.**

Liberty Center

1001 Liberty Avenue

Suite 1000

Pittsburgh, PA 15222

Direct: (412) 338-5144 | Main: (412) 232-0404 | Mobile: (484) 269-7273

[Zachary.Mueller@jacksonlewis.com](mailto:Zachary.Mueller@jacksonlewis.com) | [www.jacksonlewis.com](http://www.jacksonlewis.com)

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**From:** Montgomery, Roberta <[Roberta.Montgomery@nlrb.gov](mailto:Roberta.Montgomery@nlrb.gov)>

**Sent:** Wednesday, July 10, 2019 4:52 PM

**To:** Mueller, Zachary J. (Pittsburgh) <[Zachary.Mueller@jacksonlewis.com](mailto:Zachary.Mueller@jacksonlewis.com)>

**Subject:** University Hospitals

**I have attached a Questionnaire on Commerce which I need completed and returned to this office asap, but no later than Friday, July 12, 2019.**

*Roberta A. Montgomery, Field Examiner*

*National Labor Relations Board*

*1695 AJC Federal Office Building*

*1240 E. 9<sup>th</sup> Street*

*Cleveland, Ohio 44199*

*(216) 303-7371*

*[roberta.montgomery@nlrb.gov](mailto:roberta.montgomery@nlrb.gov)*



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**From:** Mueller, Zachary J. (Pittsburgh) <Zachary.Mueller@jacksonlewis.com>  
**Sent:** Friday, October 11, 2019 7:49 AM  
**To:** Montgomery, Roberta  
**Cc:** Smith, Douglas G. (Pittsburgh); (b) (6), (b) (7)(C)  
**Subject:** UH - 08-CA-241386  
**Attachments:** (b) (6), (b) (7)(C) UH Emails - 10.9.19.pdf

Good Morning Roberta,

As you requested, I am resending the below email and accompanying documents in response to the NLRB subpoenas.

Thanks very much.

Begin Forwarded Message:

**Zachary J. Mueller**  
Attorney at Law  
**Jackson Lewis P.C.**  
Liberty Center  
1001 Liberty Avenue  
Suite 1000  
Pittsburgh, PA 15222  
Direct: (412) 338-5144 | Main: (412) 232-0404 | Mobile: (484) 269-7273  
[Zachary.Mueller@jacksonlewis.com](mailto:Zachary.Mueller@jacksonlewis.com) | [www.jacksonlewis.com](http://www.jacksonlewis.com)

**From:** "Mueller, Zachary J. (Pittsburgh)" <[Zachary.Mueller@jacksonlewis.com](mailto:Zachary.Mueller@jacksonlewis.com)>  
**Subject:** RE: UH - 08-CA-241386  
**Date:** 09 October 2019 12:06  
**To:** "Montgomery, Roberta" <[Roberta.Montgomery@nlrb.gov](mailto:Roberta.Montgomery@nlrb.gov)>  
**Cc:** "Smith, Douglas G. (Pittsburgh)" <[Douglas.Smith@jacksonlewis.com](mailto:Douglas.Smith@jacksonlewis.com)>, (b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C) <[@jacksonlewis.com](mailto:(b) (6), (b) (7)(C)@jacksonlewis.com)>

Hi Roberta,

Attached are emails responsive to the NLRB's subpoenas in this case. These emails include the specific email between (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) that you referenced in your email below. After the interviews last week, we also asked (b) (6), (b) (7)(C), (b) (7)(D) and (b) (6), (b) (7)(C), (b) (7)(D) to check their emails again for any additional responsive records. We have additional records here.

As you'll see, after interviewing with (b) (6), (b) (7)(C) on December 12, 2018, (b) (6), (b) (7)(C) asked to withdraw from consideration for the (b) (6), (b) (7)(C) position. Before (b) (6), (b) (7)(C) had the chance to interview the candidates, however, (b) (6), (b) (7)(C) approached (b) (6), (b) (7)(C) and said that (b) (6), (b) (7)(C) had a change of heart, based in part on encouragement from other staff members. (b) (6), (b) (7)(C) thus asked that (b) (6), (b) (7)(C) continue in the interview process. (b) (6), (b) (7)(C) along with the three other candidates met with (b) (6), (b) (7)(C) for interviews in January 2019. (b) (6), (b) (7)(C) as you'll see in the emails, was announced as the successful candidate on January 30, 2019.

As always, please let us know if you have any questions. Thank you.

**Zachary J. Mueller**

Attorney at Law

**Jackson Lewis P.C.**

Liberty Center

1001 Liberty Avenue

Suite 1000

Pittsburgh, PA 15222

Direct: (412) 338-5144 | Main: (412) 232-0404 | Mobile: (484) 269-7273

[Zachary.Mueller@jacksonlewis.com](mailto:Zachary.Mueller@jacksonlewis.com) | [www.jacksonlewis.com](http://www.jacksonlewis.com)

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**From:** Montgomery, Roberta <[Roberta.Montgomery@nlrb.gov](mailto:Roberta.Montgomery@nlrb.gov)>

**Sent:** Monday, October 7, 2019 11:16 AM

**To:** Mueller, Zachary J. (Pittsburgh) <[Zachary.Mueller@jacksonlewis.com](mailto:Zachary.Mueller@jacksonlewis.com)>

**Subject:** UH - 08-CA-241386

I have not received the e-mail between (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C). Please provide so that a determination can be made in this matter.

*Roberta A. Montgomery, Field Examiner  
National Labor Relations Board  
1695 AJC Federal Office Building  
1240 E. 9<sup>th</sup> Street  
Cleveland, Ohio 44199*

[roberta.montgomery@nlrb.gov](mailto:roberta.montgomery@nlrb.gov)

Direct Dial: (216) 303-7371/cell: (202) 674-0840

Facsimile: (216) 522-2418

*The NLRB strongly encourages all parties to file documents electronically through our online E-File system: <https://mynlrb.nlrb.gov/portal/nlrb.pt?open=512&objID=202&mode=2>*

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From: (b) (6), (b) (7)(C)  
Sent: Tuesday, January 29, 2019 12:59 PM  
To: (b) (6), (b) (7)(C)@UHhospitals.org>  
Subject: A few things

Hi (b) (6), (b) (7)(C)

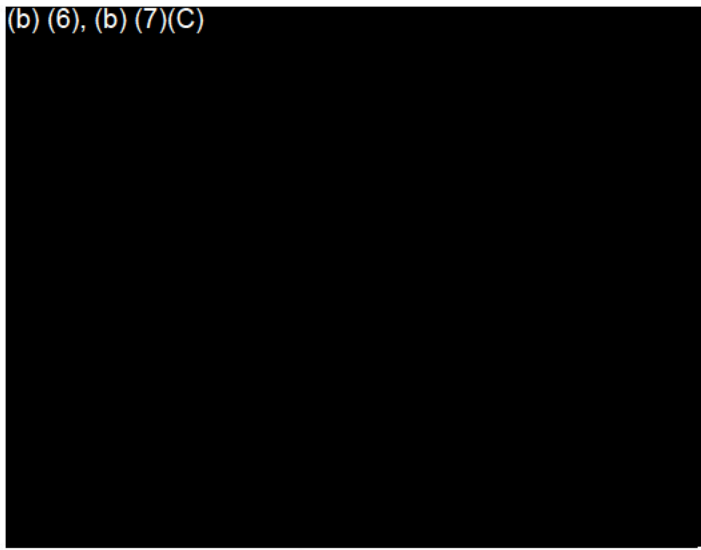
(b) (6), (b) (7)(C) recognized a few of (b) (6), (b) (7)(C) peers, Saturday was extremely busy, (b) (6), (b) (7)(C) offered to come in for OT, which helped. The staff performed 30 studies, a Saturday record. (b) (6), (b) (7)(C) gave them 10,000 points for staying to help (b) (6), (b) (7)(C) took call, but had several end of the day "stats", 2-3,000 would have been more appropriate. I emailed you and (b) (6), (b) (7)(C) about going to 4-(b) (6), (b) (7)(C) on Saturdays, I did not get any responses. Based on increasing Saturday volumes, I am going to 4-(b) (6), (b) (7)(C) effective March 30<sup>th</sup>. I am notifying staff tonight at our staff meeting.

Do you have 5-10 minutes today to discuss the (b) (6), (b) (7)(C) position? I am leaning towards (b) (6), (b) (7)(C) are you in agreement. I understand it is my decision, but would like your thoughts.

I will be submitting a check request shortly for stress accreditation for Medina. When we went for initial accreditation, there were not any stress exams that met (b) (6), (b) (7)(C) criteria d/t volumes and MD turnover. All stresses were (b) (6), (b) (7)(C) that met criteria, (b) (6), (b) (7)(C) was new to the location.

I saw you set up a meeting for Hudson. The attached document will need to be submitted to change their accreditation to a multiple site under our umbrella (UH Cleveland), even though an Ahuja based health center. I can work on this, keeping you in the loop as I'm sure there will be a large action item list for this initiative.

(b) (6), (b) (7)(C)



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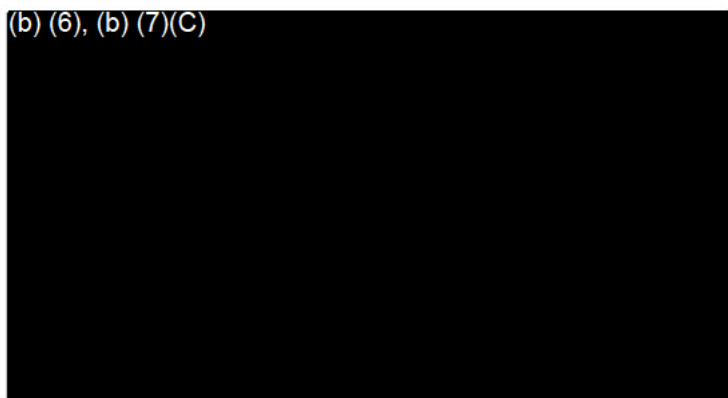
**From:** (b) (6), (b) (7)(C)  
**Sent:** Thursday, December 13, 2018 10:02 AM  
**To:** (b) (6), (b) (7)(C) @UHhospitals.org>  
**Subject:** RE: interviews

(b) (6), (b) (7)(C) I am withdrawing my application from the (b) (6), (b) (7)(C) role because I feel there are still things I need to become more familiar with. Besides that, others know the system much better at this time and should be considered first. I will anticipate permanent full time hours once they are available as a (b) (6), (b) (7)(C) which I totally enjoy!

Also, maybe I can serve in the (b) (6), (b) (7)(C) when that program develops.

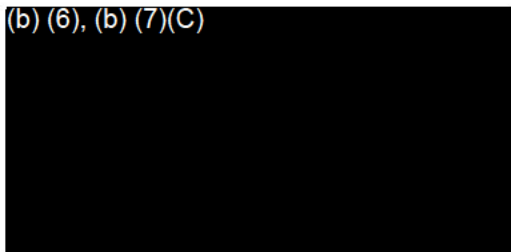
Thank you for the opportunity for the (b) (6), (b) (7)(C) role!

(b) (6), (b) (7)(C)





(b) (6), (b) (7)(C)



From: (b) (6), (b) (7)(C)

Sent: Thursday, December 13, 2018 10:02 AM

To: (b) (6), (b) (7)(C) @UHHospitals.org>

Subject: RE: interviews

why?

(b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C)

Sent: Thursday, December 13, 2018 9:02 AM

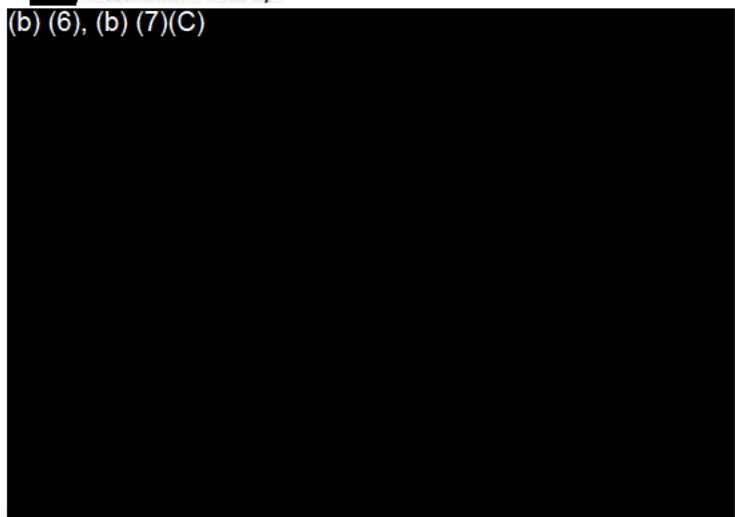
To: (b) (6), (b) (7)(C)

Subject: RE: interviews

Thank you.

(b) (6), (b) (7)(C) withdrew today.

(b) (6), (b) (7)(C)



---

From: (b) (6), (b) (7)(C)

Sent: Wednesday, December 12, 2018 10:16 AM

To: (b) (6), (b) (7)(C) @UHHospitals.org>

Subject: interviews

Hi (b) (6), (b) (7)(C)

4 highly qualified candidates

Tried to get an idea of why they want the job, specifically what they would want to do as (b) (6), (b) (7)(C), their vision of the lab in 5 years, their individual strengths and weaknesses, the best and worst thing about the lab, and then asked them to sell themselves.

On basis of experience and interview, would rank in descending order, (b) (6), (b) (7)(C).

You'll have to sandwich the bad news to (b) (6), (b) (7)(C) if you don't select (b) (6), (b) (7)(C).


(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)  
Sent: Thursday, December 13, 2018 3:04 PM  
To: (b) (6), (b) (7)(C)@UHHospitals.org>  
Subject: RE: (b) (6), (b) (7)(C)

Monday (anytime) for (b) (6), (b) (7)(C) Thursday AM for (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) withdrew.

(b) (6), (b) (7)(C)



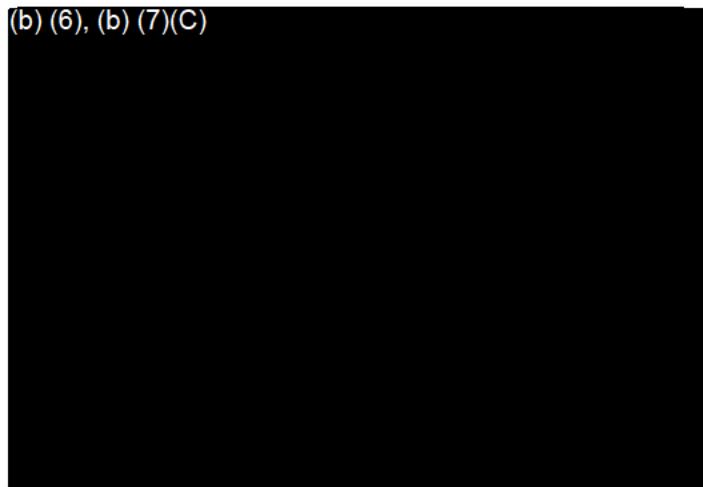
From: (b) (6), (b) (7)(C)  
Sent: Thursday, December 13, 2018 2:40 PM  
To: (b) (6), (b) (7)(C) @UHHospitals.org>  
Subject: RE: (b) (6), (b) (7)(C)

Next week....

From: (b) (6), (b) (7)(C)  
Sent: Thursday, December 13, 2018 2:26 PM  
To: (b) (6), (b) (7)(C) @UHHospitals.org>  
Subject: RE: (b) (6), (b) (7)(C)

Whatever works for you.

(b) (6), (b) (7)(C)



From: (b) (6), (b) (7)(C)  
Sent: Thursday, December 13, 2018 2:25 PM  
To: (b) (6), (b) (7)(C) @UHHospitals.org>  
Subject: RE: (b) (6), (b) (7)(C)


When?

From: (b) (6), (b) (7)(C)  
Sent: Thursday, December 13, 2018 1:19 PM  
To: (b) (6), (b) (7)(C) @UHHospitals.org>  
Subject: (b) (6), (b) (7)(C)


Hi (b) (6), (b) (7)(C)

Do you have some time to talk with the (b) (6), (b) (7)(C) candidates?

(b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)



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From: (b) (6), (b) (7)(C)  
Sent: Monday, January 14, 2019 10:41 AM  
To: (b) (6), (b) (7)(C)@UHhospitals.org>  
Subject: (b) (6), (b) (7)(C)

Thanks (b) (6), (b) (7)(C) I was always under the impression that (b) (6), (b) (7)(C).

(b) (6), (b) (7)(C)

Also, can I schedule the last set of interviews with you for next week (b) (6), (b) (7)(C) )?

(b) (6), (b) (7)(C)



From: (b) (6), (b) (7)(C)

Sent: Monday, January 14, 2019 10:37 AM

To: (b) (6), (b) (7)(C) @UHHospitals.org>

Cc: (b) (6), (b) (7)(C) @UHHospitals.org>; (b) (6), (b) (7)(C) @UHHospitals.org>

Subject: RE: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Good questions

I've copied a couple email trails regarding this.

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Monday, January 14, 2019 10:11 AM

To: (b) (6), (b) (7)(C) @UHHospitals.org>

Cc: (b) (6), (b) (7)(C) @UHHospitals.org>; (b) (6), (b) (7)(C) @UHHospitals.org>

(b) (6), (b) (7)(C)

Hi (b) (6), (b) (7)(C) and group,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

I am just trying

to learn what the agreement was and the process for submission of technical charges. (b) (6), (b) (7)(C)

, that is not currently happening.

(b) (6), (b) (7)(C)

Visit us at [www.UHhospitals.org](http://www.UHhospitals.org).

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Federal and Ohio law protect patient medical information, including psychiatric\_disorders, (H.I.V) test results, A.I.Ds-related conditions, alcohol, and/or drug\_dependence or abuse disclosed in this email. Federal regulation (42 CFR Part 2) and Ohio Revised Code section 5122.31 and 3701.243 prohibit disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law.

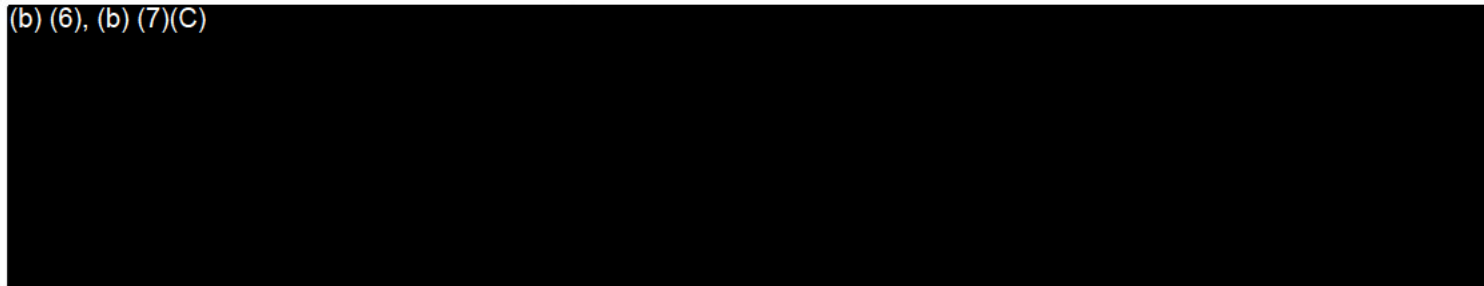
**From:** (b) (6), (b) (7)(C)@UHhospitals.org>  
**Sent:** (b) (6), (b) (7)(C) 2019 4:07 PM  
**To:** (b) (6), (b) (7)(C)



**Subject:** UH Cleveland (b) (6), (b) (7)(C) announcement  
**Attachments:** Archived; ATT00001.txt

Please join me in congratulating (b) (6), (b) (7)(C) on promotion to the (b) (6), (b) (7)(C) at UH Cleveland Medical Center, effective (b) (6), (b) (7)(C)

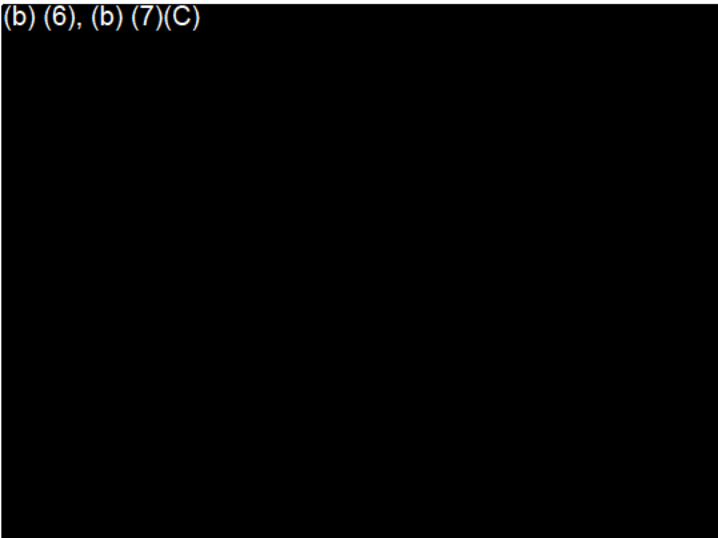
(b) (6), (b) (7)(C)



In addition to assisting with the day to day clinical operations of (b) (6), and maintaining an efficient work environment, we look forward to (b) (6), (b) (7) assistance in collaborating with the (b) (6), (b) (7)(C) Lab as the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) initiative gets underway.

Congratulations (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)



## Montgomery, Roberta

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**From:** Mueller, Zachary J. (Pittsburgh) <Zachary.Mueller@jacksonlewis.com>  
**Sent:** Wednesday, October 9, 2019 12:07 PM  
**To:** Montgomery, Roberta  
**Cc:** Smith, Douglas G. (Pittsburgh); (b) (6), (b) (7)(C)  
**Subject:** RE: UH - 08-CA-241386  
**Attachments:** (b) (6), (b) (7)(C) UH Emails - 10.9.19.pdf  
  
**Categories:** NxGen Uploaded  
**NxGen:** Uploaded

Hi Roberta,

Attached are emails responsive to the NLRB's subpoenas in this case. These emails include the specific email between (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) that you referenced in your email below. After the interviews last week, we also asked (b) (6), (b) (7)(C), (b) (7)(D), and (b) (6), (b) (7)(C), (b) (7) to check their emails again for any additional responsive records. We have included those additional records here.

As you'll see, after interviewing with (b) (6), (b) (7)(C) on December 12, 2018, (b) (6), (b) (7)(C) asked to withdraw from consideration for the (b) (6), (b) (7) position. Before (b) (6), (b) (7)(C) had the chance to interview the candidates, however, (b) (6), (b) (7)(C) approached (b) (6), (b) (7)(C) and said that (b) (6) had a change of heart, based in part on encouragement (b) (6), (b) (7)(C) received from other staff members. (b) (6), (b) (7)(C) thus asked that (b) (6) continue in the interview process. (b) (6), (b) (7)(C) along with the three other candidates, then met with (b) (6), (b) (7)(C) for interviews in January 2019. (b) (6), (b) (7)(C) as you'll see in the emails, was announced as the successful candidate on January 30, 2019.

As always, please let us know if you have any questions. Thank you.

**Zachary J. Mueller**  
Attorney at Law  
**Jackson Lewis P.C.**  
Liberty Center  
1001 Liberty Avenue  
Suite 1000  
Pittsburgh, PA 15222  
Direct: (412) 338-5144 | Main: (412) 232-0404 | Mobile: (484) 269-7273  
Zachary.Mueller@jacksonlewis.com | www.jacksonlewis.com

**From:** Montgomery, Roberta <Roberta.Montgomery@nrlb.gov>  
**Sent:** Monday, October 7, 2019 11:16 AM  
**To:** Mueller, Zachary J. (Pittsburgh) <Zachary.Mueller@jacksonlewis.com>  
**Subject:** UH - 08-CA-241386

I have not received the e-mail between (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C). Please provide so that a determination can be made in this matter.

*Roberta A. Montgomery, Field Examiner  
National Labor Relations Board*



1695 AJC Federal Office Building  
1240 E. 9<sup>th</sup> Street  
Cleveland, Ohio 44199

[roberta.montgomery@nlr6.gov](mailto:roberta.montgomery@nlr6.gov)

Direct Dial: (216) 303-7371/cell: (202) 674-0840  
Facsimile: (216) 522-2418

*The NLRB strongly encourages all parties to file documents electronically through our online E-File system: <https://mynlrb.nlr6.gov/portal/nlr6.pt?open=512&objID=202&mode=2>*

From: (b) (6), (b) (7)(C)  
Sent: Tuesday, January 29, 2019 12:59 PM  
To: (b) (6), (b) (7)(C)@UHhospitals.org>  
Subject: A few things

Hi (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) recognized a few of (b) (6), (b) (7)(C) peers, Saturday was extremely busy, (b) (6), (b) (7)(C) offered to come in for OT, which helped. (b) (6), (b) (7)(C)

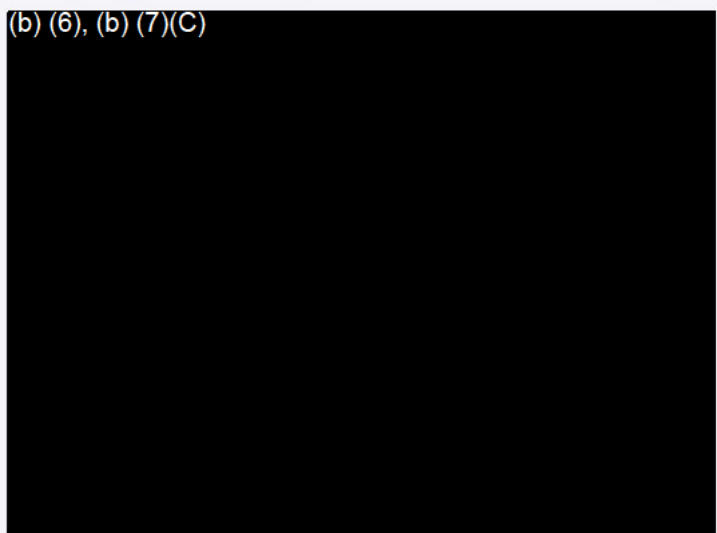
I am notifying staff tonight at our staff meeting.

Do you have 5-10 minutes today to discuss the (b) (6), (b) (7)(C) position? I am leaning towards (b) (6), (b) (7)(C) are you in agreement. I understand it is my decision, but would like your thoughts.

I will be submitting a check request shortly for (b) (6), (b) (7)(C). When we went for (b) (6), (b) (7)(C), there were not any (b) (6), (b) (7)(C). All stresses were (b) (6), (b) (7)(C) that met criteria, (b) (6), (b) (7)(C) was new to the location.

I saw you set up a meeting for Hudson. The attached document will need to be submitted to change their accreditation to a multiple site under our umbrella (UH Cleveland), even though an Ahuja based health center. I can work on this, keeping you in the loop as I'm sure there will be a large action item list for this initiative.

(b) (6), (b) (7)(C)



From: (b) (6), (b) (7)(C)

Sent: Thursday, December 13, 2018 10:02 AM

To: (b) (6), (b) (7)(C) @UHhospitals.org>

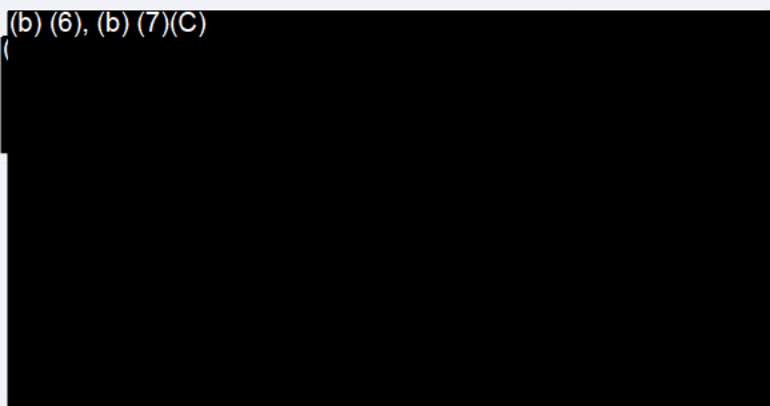
Subject: RE: interviews

(b) (6), (b) (7)(C) I am withdrawing my application from the (b) (6), (b) (7)(C) role because I feel there are still things I need to become more familiar with. Besides that, others know the system much better at this time and should be considered first. I will anticipate permanent full time hours once they are available as a staff (b) (6), (b) (7)(C) which I totally enjoy!

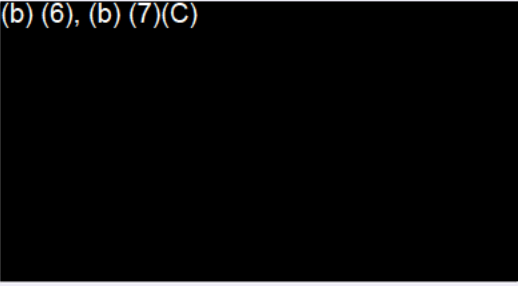
Also, maybe I can serve in the (b) (6), (b) (7)(C) lab when that program develops.

Thank you for the opportunity for the (b) (6), (b) (7)(C) role!

(b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)



From: (b) (6), (b) (7)(C)  
Sent: Thursday, December 13, 2018 10:02 AM  
To: (b) (6), (b) (7)(C) @UHhospitals.org>  
Subject: RE: interviews

why?

(b) (6), (b) (7)(C)

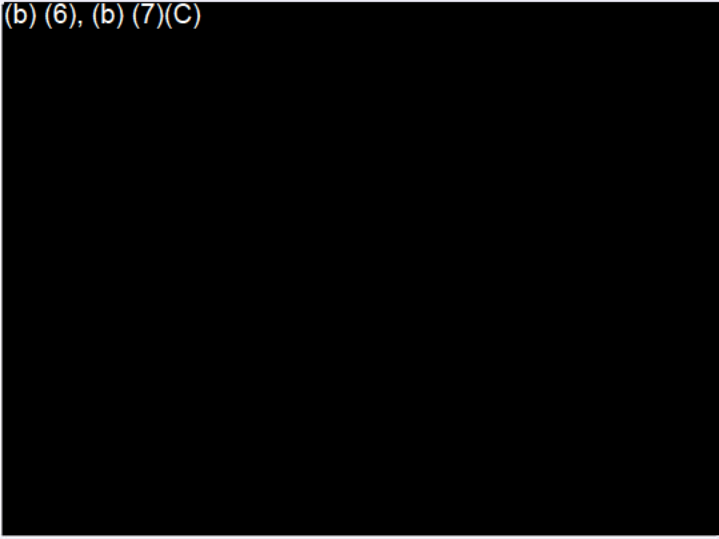
---

From: (b) (6), (b) (7)(C)  
Sent: Thursday, December 13, 2018 9:02 AM  
To: (b) (6), (b) (7)(C)  
Subject: RE: interviews

Thank you.

(b) (6), (b) (7)(C) withdrew today.

(b) (6), (b) (7)(C)



From: (b) (6), (b) (7)(C)  
Sent: Wednesday, December 12, 2018 10:16 AM  
To: (b) (6), (b) (7)(C) @UHhospitals.org>  
Subject: interviews

Hi (b) (6), (b) (7)(C)

4 highly qualified candidates

Tried to get an idea of why they want the job, specifically what they would want to do as (b) (6), (b) (7)(C), their vision of (b) (6), 5 years, their individual strengths and weaknesses, the best and worst thing (b) (6), (b) (7)(C), and then asked them to sell themselves.

On basis of experience and interview, would rank in descending order, (b) (6), (b) (7)(C)

You'll have to sandwich the bad news to (b) (6), (b) (7)(C) if you don't select (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)



From: (b) (6), (b) (7)(C)  
Sent: Monday, January 14, 2019 10:41 AM  
To: (b) (6), (b) (7)(C) @UHhospitals.org>  
Subject: RE: (b) (6), (b) (7)(C)

Thanks (b) (6), (b) (7)(C) I was always under the impression that (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Also, can I schedule the last set of interviews with you for next week (b) (6), (b) (7)(C) ?

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Monday, January 14, 2019 10:37 AM

To: (b) (6), (b) (7)(C) @UHHospitals.org>

Cc: (b) (6), (b) (7)(C) @UHHospitals.org> (b) (6), (b) (7)(C) @UHHospitals.org>

Subject: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Good questions

I've copied a couple email trails regarding this.

(b) (4)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Monday, January 14, 2019 10:11 AM

To: (b) (6), (b) (7)(C) @UHHospitals.org>

Cc: (b) (6), (b) (7)(C) @UHHospitals.org> (b) (6), (b) (7)(C) @UHHospitals.org>

Subject: Rainbow use of Broadview machine

Hi (b) (6), (b) (7)(C) and group,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C). I am just trying to learn what the agreement was and the process for submission of technical charges. (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) that is not currently happening.

(b) (6), (b) (7)(C)



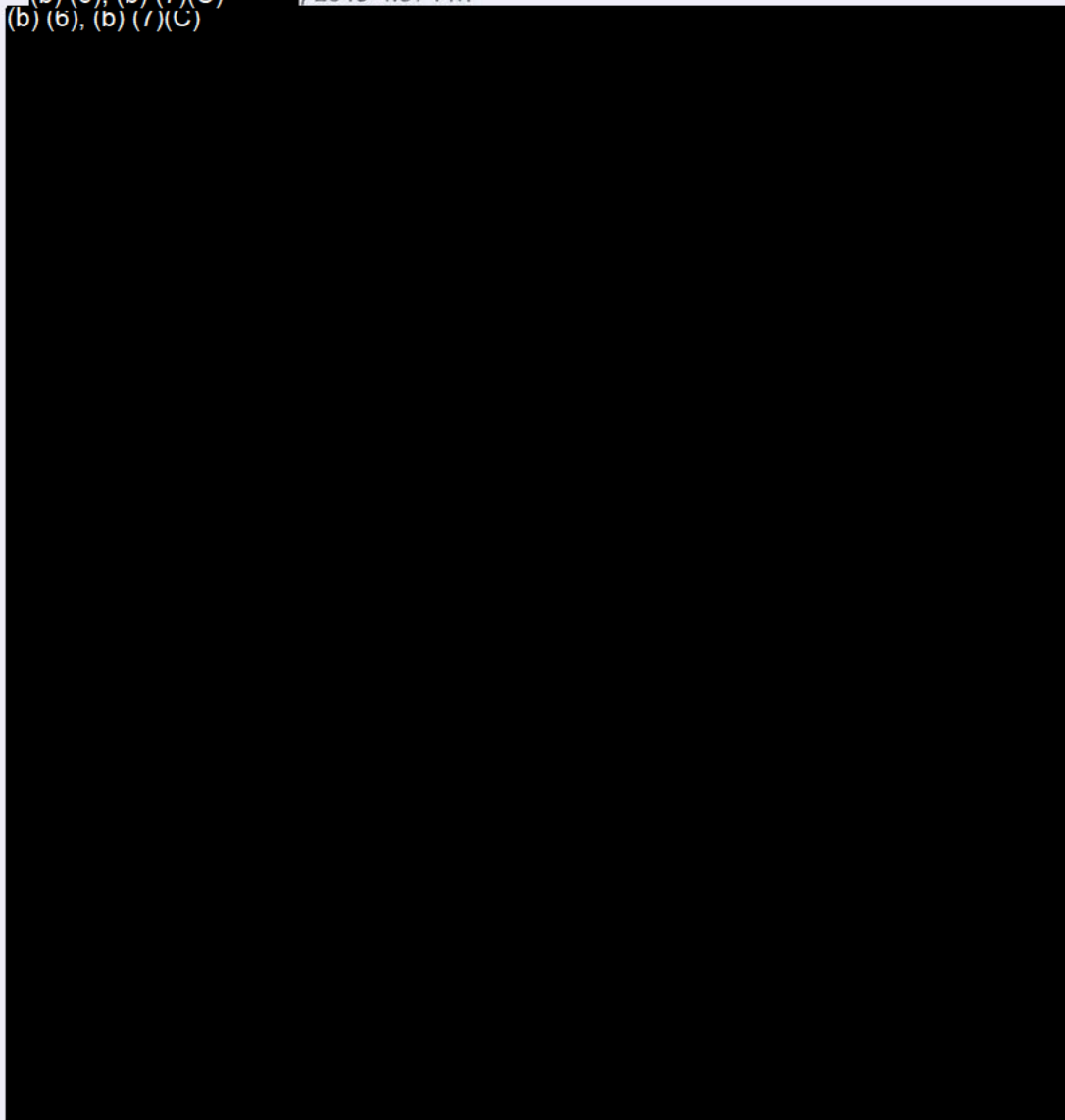
University Hospitals

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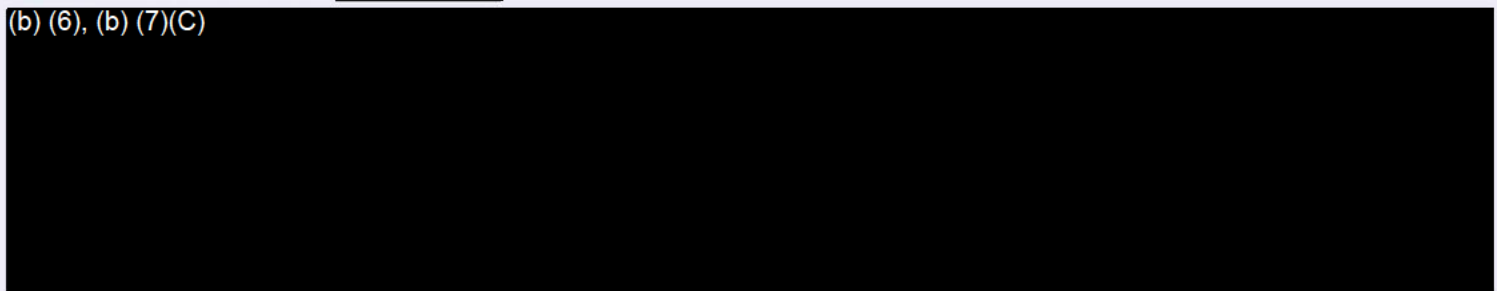
Federal and Ohio law protect patient medical information, including psychiatric\_disorders, (H.I.V) test results, A.I.Ds-related conditions, alcohol, and/or drug\_dependence or abuse disclosed in this email. Federal regulation (42 CFR Part 2) and Ohio Revised Code section 5122.31 and 3701.243 prohibit disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law.

**From:** (b) (6), (b) (7)(C)@UHhospitals.org>  
**Sent:** (b) (6), (b) (7)(C), 2019 4:07 PM  
**To:** (b) (6), (b) (7)(C)



**Subject:** UH Cleveland Lead (b) (6), (b) (7)(C) announcement  
**Attachments:** Archived; ATT00001.txt

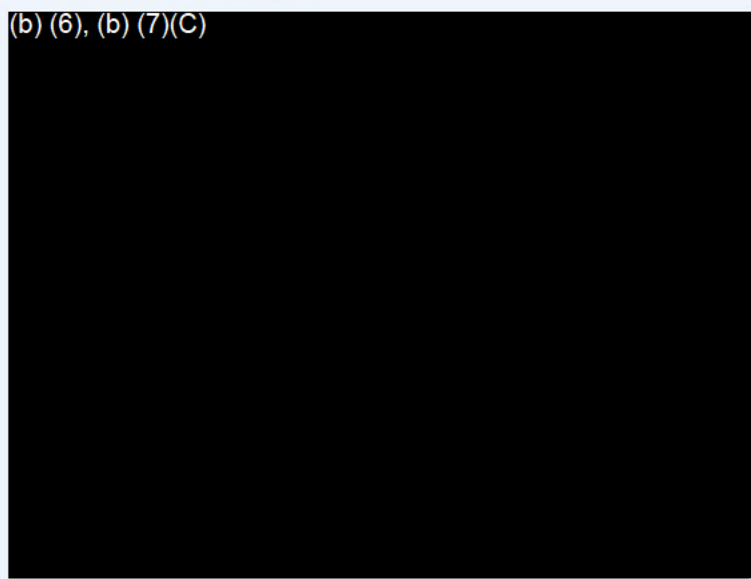
Please join me in congratulating (b) (6), (b) (7)(C) on promotion to the (b) (6), (b) (7)(C) at UH Cleveland Medical Center, effective (b) (6), (b) (7)(C)



In addition to assisting with the day to day clinical operations of our lab and maintaining an efficient work environment, we look forward to (b) (6), (b) (7) assistance in collaborating with the (b) (6), (b) (7)(C) Lab as the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) initiative gets underway.

Congratulations (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)



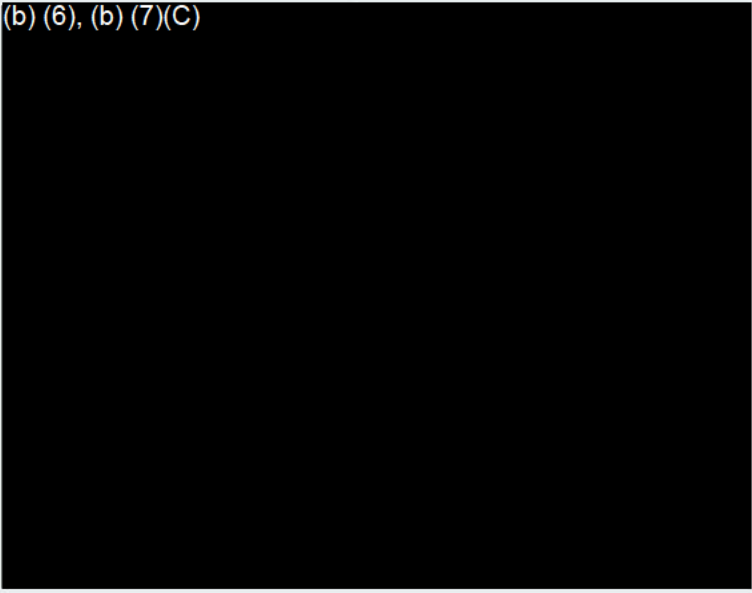


From: (b) (6), (b) (7)(C)  
Sent: Thursday, December 13, 2018 3:04 PM  
To: (b) (6), (b) (7)(C) @UHhospitals.org>  
Subject: RE: (b) (6), (b) (7)(C)

Monday (anytime) for (b) (6), (b) (7)(C) Thursday AM for (b) (6), (b) (7)(C).

(b) (6), (b) (7)(C) withdrew.

(b) (6), (b) (7)(C)



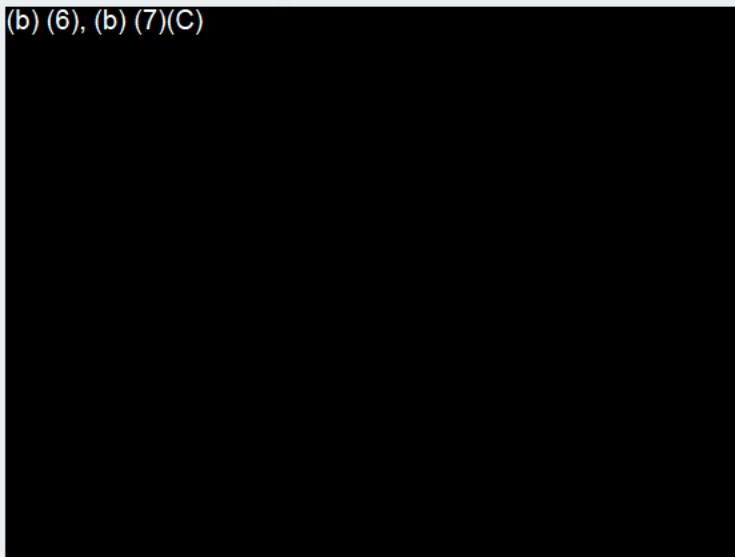
From: (b) (6), (b) (7)(C)  
Sent: Thursday, December 13, 2018 2:40 PM  
To: (b) (6), (b) (7)(C) @UHHospitals.org>  
Subject: RE: (b) (6), (b) (7)(C)

Next week....

From: (b) (6), (b) (7)(C)  
Sent: Thursday, December 13, 2018 2:26 PM  
To: (b) (6), (b) (7)(C) @UHHospitals.org>  
Subject: RE: (b) (6), (b) (7)(C)

Whatever works for you.

(b) (6), (b) (7)(C)



From: (b) (6), (b) (7)(C)  
Sent: Thursday, December 13, 2018 2:25 PM  
To: (b) (6), (b) (7)(C) @UHHospitals.org>  
Subject: RE: (b) (6), (b) (7)(C)


When?

From: (b) (6), (b) (7)(C)  
Sent: Thursday, December 13, 2018 1:19 PM  
To: (b) (6), (b) (7)(C) @UHHospitals.org>  
Subject: (b) (6), (b) (7)(C)

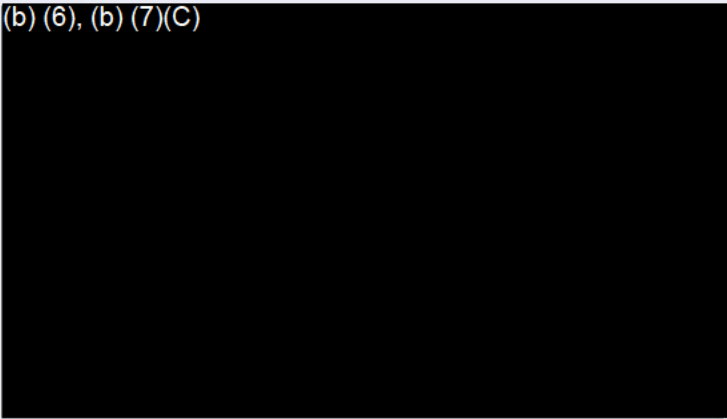
Hi (b) (6), (b) (7)(C)

Do you have some time to talk with the (b) (6), (b) (7)(C) candidates?

(b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)



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---

**From:** Mueller, Zachary J. (Pittsburgh) <Zachary.Mueller@jacksonlewis.com>  
**Sent:** Saturday, October 26, 2019 2:22 PM  
**To:** Montgomery, Roberta  
**Subject:** Automatic reply: UH 08-CA-241386

Thank you for your email. I am out of the office, with limited access to email, until Monday, October 28. If you need immediate assistance, please contact my assitant, (b) (6), (b) (7)(C), at (b) (6), (b) (7)(C). Thank you.

---

**From:** Mueller, Zachary J. (Pittsburgh) <Zachary.Mueller@jacksonlewis.com>  
**Sent:** Friday, November 1, 2019 9:33 AM  
**To:** Montgomery, Roberta  
**Cc:** Smith, Douglas G. (Pittsburgh); (b) (6), (b) (7)(C)  
**Subject:** RE: UH 08-CA-241386

Hi Roberta,

This email is in response to your information request dated October 26, 2019. We have included below responses to each of the five questions you asked.

1. On October 29, 2018, (b) (6), (b) (7)(C) emailed the job posting and position description for the (b) (6), (b) (7)(C) job to the (b) (6), (b) (7)(C) in the department. We included that posting and job description in our October 2, 2019 response to the Region's Subpoena Duces Tecum Nos. B-1-16LMAL5 and B-1-16LMB37. All applicants were thus put on notice of the qualifications for the job and the criteria to be considered for the position.
2. Of the four applicants, only (b) (6), (b) (7)(C) was deemed unqualified for the job. That is because (b) (6), (b) (7)(C) did not have the requisite work experience set forth in the "Experience & Knowledge" section of the (b) (6), (b) (7)(C) job description.
3. The notification, bidding, interviewing, evaluation, and decision-making processes for the (b) (6), (b) (7)(C) position were the same as those for the (b) (6), (b) (7)(C) role.
4. UH does not take the position that the (b) (6), (b) (7)(C) is a 2(11) supervisor.
5. The (b) (6), (b) (7)(C) was not expressly bid as a full-time job. *See* October 29, 2018 Job Posting.

Thank you, as always, for your time and help. Please don't hesitate to contact me with any questions.

**Zachary J. Mueller**  
Attorney at Law  
**Jackson Lewis P.C.**  
Liberty Center  
1001 Liberty Avenue  
Suite 1000  
Pittsburgh, PA 15222  
Direct: (412) 338-5144 | Main: (412) 232-0404 | Mobile: (484) 269-7273  
[Zachary.Mueller@jacksonlewis.com](mailto:Zachary.Mueller@jacksonlewis.com) | [www.jacksonlewis.com](http://www.jacksonlewis.com)

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**From:** Montgomery, Roberta <Roberta.Montgomery@nrlrb.gov>  
**Sent:** Saturday, October 26, 2019 2:22 PM  
**To:** Mueller, Zachary J. (Pittsburgh) <Zachary.Mueller@jacksonlewis.com>  
**Subject:** UH 08-CA-241386

1. Were all applicants put on notice of the qualifications for the bid job and the criteria to be considered for the position?
2. Were all of the applicants deemed qualified to perform the requirements of the bid job? If no, which applicant(s) were deemed unqualified for the position and why?
3. How, if at all, did the notification / bidding / interviewing / evaluation / decision making processes differ for this position (b) (6), (b) (7)(C) as opposed to the prior position (b) (6), (b) (7)(C) bid on by (b) (6), (b) (7)(C)?
4. Does the Employer take the position that the (b) (6), (b) (7)(C) is a supervisory position (and that as such, anyone holding that position is a 2(11) under the Act)?
5. Was the job bid as a full-time position?

Please provide the above asap as the Region wants to make a determination in this case.

*Roberta A. Montgomery, Field Examiner  
National Labor Relations Board  
1695 AJC Federal Office Building  
1240 E. 9<sup>th</sup> Street  
Cleveland, Ohio 44199*

[roberta.montgomery@nrlrb.gov](mailto:roberta.montgomery@nrlrb.gov)

Direct Dial: (216) 303-7371/cell: (202) 674-0840  
Facsimile: (216) 522-2418

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**From:** Montgomery, Roberta  
**Sent:** Friday, November 8, 2019 10:58 AM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** H 08-CA-241386

I have heard from the employer (b) (6) is not a supervisor. If you could please give me (b) (6) work phone number I would appreciate it.

---

**From:** Montgomery, Roberta  
**Sent:** Thursday, October 10, 2019 10:43 AM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** UH 08-CA-241386

Hey (b) (6), (b) (7)(C)

I need to speak to you about your charge against UH. I need to know whether (b) (6), (b) (7)(C) is a supervisor since (b) (6), (b) (7)(C) got that position.

If (b) (6) is not a supervisor, please give me (b) (6), (b) (7)(C) work number.

Thanks

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**From:** Montgomery, Roberta  
**Sent:** Friday, November 8, 2019 10:57 AM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** RE: (b) (6), (b) (7)(C)

I had sent you some additional questions I needed the answers for and have been awaiting your response. I will forward again right now. Please respond asap.

Thanks

-----Original Message-----

**From:** (b) (6), (b) (7)(C)  
**Sent:** Friday, November 8, 2019 10:55 AM  
**To:** Montgomery, Roberta <Roberta.Montgomery@nlrb.gov>  
**Subject:** (b) (6), (b) (7)(C)

Hi Roberta,

I was just wondering if you have heard anything about my case.  
I hope all is well with you as the holiday season quickly approaches.

Thank you for everything,

(b) (6), (b) (7)(C)

Sent from my iPhone

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**From:** Montgomery, Roberta  
**Sent:** Friday, November 8, 2019 10:57 AM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** FW:

---

**From:** Montgomery, Roberta  
**Sent:** Saturday, October 26, 2019 2:20 PM  
**To:** (b) (6), (b) (7)(C)  
**Subject:**

Hey, (b) (6), (b) (7)(C) could you please provide the following information asap.

1. Was the job bid put out to employees in the normal fashion that the Employer usually bids jobs?
2. Do we have a copy of the actual job bid? Does it list the criteria to be evaluated? Were all applicants put on notice of the qualifications for the bid job and the criteria to be considered for the position?
3. Does the Charging Party know of any other jobs within the department that were bid out / interviewed / or otherwise filled using an irregular process inconsistent with the Employer's usual practice? Can (b) (6), (b) (7)(C) tell us what the Employer's usual practice for notification / bidding / interviewing / evaluation / decision making processes for jobs entails?
4. What job duties for the new bid position did the Charging Party perform both before and after the job was awarded? Is (b) (6), (b) (7)(C) still continuing to perform any of those functions? If so, are those functions above and beyond (b) (6), (b) (7)(C) normal current job duties / description?

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---

**From:** Montgomery, Roberta  
**Sent:** Friday, November 8, 2019 10:57 AM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** FW:

---

**From:** Montgomery, Roberta  
**Sent:** Saturday, October 26, 2019 2:25 PM  
**To:** (b) (6), (b) (7)(C)  
**Subject:**

Also, do you know if (b) (6), (b) (7)(C) position was posted and bid the same as the one you did not receive, i.e. bid posted and applicants sent an e-mail to someone, or how was that posting handled.

And please let me know how jobs are normally bid – is there a posting – who does your bid go to.

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---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Friday, November 8, 2019 1:19 PM  
**To:** Montgomery, Roberta  
**Subject:** Re:

I will get you the answer to these after I get off of work.

Sent from my iPhone

On Oct 26, 2019, at 2:19 PM, Montgomery, Roberta <[Roberta.Montgomery@nrlrb.gov](mailto:Roberta.Montgomery@nrlrb.gov)> wrote:

Hey, (b) (6), (b) (7)(C) could you please provide the following information asap.

1. Was the job bid put out to employees in the normal fashion that the Employer usually bids jobs?
2. Do we have a copy of the actual job bid? Does it list the criteria to be evaluated? Were all applicants put on notice of the qualifications for the bid job and the criteria to be considered for the position?
3. Does the Charging Party know of any other jobs within the department that were bid out / interviewed / or otherwise filled using an irregular process inconsistent with the Employer's usual practice? Can (b) (6), (b) (7)(C) tell us what the Employer's usual practice for notification / bidding / interviewing / evaluation / decision making processes for jobs entails?
4. What job duties for the new bid position did the Charging Party perform both before and after the job was awarded? Is (b) (6), (b) (7)(C) still continuing to perform any of those functions? If so, are those functions above and beyond (b) (6), (b) (7)(C) normal current job duties / description?

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---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Friday, November 8, 2019 1:13 PM  
**To:** Montgomery, Roberta  
**Subject:** Re: UH 08-CA-241386

Our work number is  
(b) (6), (b) (7)(C)

Can I ask why you need to speak to (b) (6), (b) (7)(C)?

Sent from my iPhone

On Nov 8, 2019, at 10:57 AM, Montgomery, Roberta <[Roberta.Montgomery@nlrb.gov](mailto:Roberta.Montgomery@nlrb.gov)> wrote:

I have heard from the employer (b) (6) is not a supervisor. If you could please give me (b) (6), (b) (7)(C) work phone number I would appreciate it.

---

**From:** Montgomery, Roberta  
**Sent:** Thursday, October 10, 2019 10:43 AM  
**To:** (b) (6), (b) (7)(C)  
**Subject:** UH 08-CA-241386

Hey (b) (6), (b) (7)(C)

I need to speak to you about your charge against UH. I need to know whether (b) (6), (b) (7)(C) is a supervisor since (b) (6), (b) (7)(C) got that position.

If (b) (6), (b) (7)(C) is not a supervisor, please give me (b) (6), (b) (7)(C) work number.

Thanks

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**From:** (b) (6), (b) (7)(C)  
**Sent:** Sunday, November 10, 2019 9:15 PM  
**To:** Montgomery, Roberta  
**Subject:** Re:

1. Yes the bid was put out in an email to all the (b) (6), (b) (7)(C).  
2. I do not have the original email announcing the bid. A job description was attached to the email that listed the job requirements and responsibilities. All (b) (6), (b) (7)(C) were made aware of the job through the email.  
3. The only job that no bid was put out for was the position awarded to (b) (6), (b) (7)(C) after (b) (6), (b) (7)(C) and the hospital agreed on the position of (b) (6), (b) (7)(C), a brand new created position, in exchange for dropping (b) (6), (b) (7)(C) case with the NLRB. (b) (6), (b) (7)(C) case involved (b) (6), (b) (7)(C) not receiving the (b) (6), (b) (7)(C) which went to a (b) (6), (b) (7)(C) who had worked for University Hospitals for less than (b) (6), (b) (7)(C) years, (b) (6), (b) (7)(C) was there for (b) (6), (b) (7)(C) and had been performing the responsibilities of said position for several years. I was informed by HR that (b) (6), (b) (7)(C) had received the position over me because of (b) (6), (b) (7)(C) education soon after (b) (6), (b) (7)(C) complaint was settled; which was 90 days after I filed my complaint with them. When filing my original complaint with (b) (6), (b) (7)(C) I was told I would have an answer within 30 days. Neither (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

Not many positions open up for advancement in my department but the 3 times it occurred an email was sent out with the job description attached. It will state the requirements and when documents need to be in and to whom. It will say that there will be interviews but not with whom and there is no mention of the decision making process.

4. I was responsible for scheduling and running the day as (b) (6), (b) (7)(C).

I was approved for access (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C). I still currently perform the job of (b) (6), (b) (7)(C) which is not beyond my normal job duties. (b) (6), (b) (7)(C) who received the position (b) (6), (b) (7)(C) months ago is still unable to schedule the day without help. I do not perform the lab billing anymore because it is in the job description of the (b) (6), (b) (7)(C) not the job description of a (b) (6), (b) (7)(C) (b) (6), (b) (7)(C); I did help out when (b) (6), (b) (7)(C) did not have access to the programs (b) (6), (b) (7)(C) needed to perform the billing while (b) (6), (b) (7)(C) was away. (b) (6), (b) (7)(C) is (b) (6), (b) (7)(C)

Sent from my iPad

On Nov 8, 2019, at 10:57 AM, Montgomery, Roberta <Roberta.Montgomery@nlrb.gov> wrote:

---

**From:** Montgomery, Roberta  
**Sent:** Saturday, October 26, 2019 2:20 PM  
**To:** (b) (6), (b) (7)(C)  
**Subject:**

Hey, (b) (6), (b) (7)(C) could you please provide the following information asap.

1. Was the job bid put out to employees in the normal fashion that the Employer usually bids jobs?

2. Do we have a copy of the actual job bid? Does it list the criteria to be evaluated? Were all applicants put on notice of the qualifications for the bid job and the criteria to be considered for the position?
3. Does the Charging Party know of any other jobs within the department that were bid out / interviewed / or otherwise filled using an irregular process inconsistent with the Employer's usual practice? Can (b) (6), (b) (7)(C) tell us what the Employer's usual practice for notification / bidding / interviewing / evaluation / decision making processes for jobs entails?
4. What job duties for the new bid position did the Charging Party perform both before and after the job was awarded? Is (b) (6), (b) (7)(C) still continuing to perform any of those functions? If so, are those functions above and beyond (b) (6), (b) (7)(C) normal current job duties / description?

*Roberta A. Montgomery, Field Examiner  
National Labor Relations Board  
1695 AJC Federal Office Building  
1240 E. 9<sup>th</sup> Street  
Cleveland, Ohio 44199*

[roberta.montgomery@nlr.gov](mailto:roberta.montgomery@nlr.gov)

Direct Dial: (216) 303-7371/cell: (202) 674-0840

Facsimile: (216) 522-2418

*The NLRB requires all parties file documents electronically through our online E-File system.*

---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Monday, November 25, 2019 1:20 PM  
**To:** Montgomery, Roberta  
**Subject:** New info

Hi Roberta,

I just thought that I would let you know that (b) (6), (b) (7)(C) has an interview to go work at (b) (6), (b) (7)(C). The position is for a full time (b) (6), (b) (7)(C) which would be a step down from (b) (6) current position. I also believe that if (b) (6) did get the position and leave that UH would just discontinue (b) (6) position, can they do this?

Thanks for your help,  
(b) (6), (b) (7)(C)

Sent from my iPhone

**From:** [Montgomery, Roberta](#)  
**To:** (b) (6), (b) (7)(C)  
**Subject:** RE: (b) (6), (b) (7)(C) UH case  
**Date:** Friday, December 6, 2019 5:44:00 AM

---

Your case has been under review by my supervisor. I will check with him next week on the status and let you know.

-----Original Message-----

From: (b) (6), (b) (7)(C)  
Sent: Friday, December 6, 2019 5:34 AM  
To: Montgomery, Roberta <Roberta.Montgomery@nlrb.gov>  
Subject: (b) (6), (b) (7)(C) UH case

Hi Roberta,  
I was just wondering if there was any news on my case.

Thank you,  
(b) (6), (b) (7)(C)  
Sent from my iPhone

---

**From:** Montgomery, Roberta  
**Sent:** Wednesday, December 11, 2019 12:14 PM  
**To:** Gleine, Gregory  
**Subject:** FW: (b) (6), (b) (7)(C) case

FYI

(b) (6), (b) (7)(C)

-----Original Message-----

From: (b) (6), (b) (7)(C)  
Sent: Wednesday, December 11, 2019 12:11 PM  
To: Montgomery, Roberta <Roberta.Montgomery@nlr.gov>  
Subject: (b) (6), (b) (7)(C) case

(b) (6), (b) (7)(C)

Thanks,

(b) (6), (b) (7)(C)

Sent from my iPhone

---

**From:** Gleine, Gregory  
**Sent:** Monday, December 23, 2019 1:55 PM  
**To:** zachary.mueller@jacksonlewis.com; douglas.smith@jacksonlewis.com  
**Cc:** Montgomery, Roberta  
**Subject:** NLRB Case 08-CA-241386 (University Hospitals Cleveland Medical Center)  
**Attachments:** LTR.08-CA-241386.pre CPT SET and NEE COV LTR 12-23-19.pdf; SET.08-CA-241386.pre CPT informal settlement agreement sent 12-23-19.pdf

Gentlemen,

Please see the attached correspondence and settlement proposal in the above-captioned case. Please contact me with any questions. I will be out of the office December 24 through December 27, 2019.

Regards,  
Greg  
Gregory M. Gleine  
Supervisory Field Attorney  
National Labor Relations Board  
1240 E. 9<sup>th</sup> St., Room 1695  
Cleveland, OH 44199  
(216) 303-7365 direct  
(202) 316-0859 cell  
[gregory.gleine@nrlrb.gov](mailto:gregory.gleine@nrlrb.gov)



## IN THE MATTER OF University Hospitals

**PERFORMANCE** — Performance by the Charged Party with the terms and provisions of this Agreement shall commence immediately after the Agreement is approved by the Regional Director, or if the Charging Party does not enter into this Agreement, performance shall commence immediately upon receipt by the Charged Party of notice that no review has been requested or that the General Counsel has sustained the Regional Director.

The Charged Party agrees that in case of non-compliance with any of the terms of this Settlement Agreement by the Charged Party, and after 14 days' notice from the Regional Director of the National Labor Relations Board of such non-compliance without remedy by the Charged Party, the Regional Director will issue a Complaint that includes the allegations covered by the Notice to Employees, as identified above in the Scope of Agreement section, as well as filing and service of the charge(s), commerce facts necessary to establish Board jurisdiction, labor organization status, appropriate bargaining unit (if applicable), and any other allegations the General Counsel would ordinarily plead to establish the unfair labor practices.

**NOTIFICATION OF COMPLIANCE** — Each party to this Agreement will notify the Regional Director in writing what steps the Charged Party has taken to comply with the Agreement. This notification shall be given within 5 days, and again after 60 days, from the date of the approval of this Agreement. If the Charging Party does not enter into this Agreement, initial notice shall be given within 5 days after notification from the Regional Director that the Charging Party did not request review or that the General Counsel sustained the Regional Director's approval of this agreement. No further action shall be taken in the above captioned case(s) provided that the Charged Party complies with the terms and conditions of this Settlement Agreement and Notice.

<b>Charged Party</b> <b>University Hospitals</b>		<b>Charging Party</b> <b>(b) (6), (b) (7)(C)</b>	
By:	Name and Title	Date	
<hr/> Zachery Mueller, Esq.		<hr/> <b>(b) (6), (b) (7)(C)</b> An Individual	
Recommended By:		Date	
ROBERTA MONTGOMERY Field Examiner		IVA Y. CHOE Regional Director, Region 8	

(To be printed and posted on official Board notice form)

**THE NATIONAL LABOR RELATIONS ACT GIVES YOU THE RIGHT TO:**

- Form, join, or assist a union;
- Choose a representative to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

**WE WILL NOT** do anything to prevent you from exercising the above rights.

**WE WILL NOT** deny promotions to our employees because they have engaged in union and/or protected activity.

**WE WILL NOT** in any like or related manner interfere with your rights under Section 7 of the Act.

**WE WILL** promote (b) (6), (b) (7)(C) to the position of (b) (6), (b) (7)(C) which (b) (6) was unlawfully denied.

**WE WILL** make (b) (6), (b) (7)(C) whole for any loss of pay (b) (6) suffered as a result of our denying (b) (6) the promotion of (b) (6), (b) (7)(C) because (b) (6) engaged in union and/or protected concerted activities.

**University Hospitals**

\_\_\_\_\_  
(Employer)

**Dated:** \_\_\_\_\_ **By:** \_\_\_\_\_  
(Representative) (Title)

---

*The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine whether employees want union representation and we investigate and remedy unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below or you may call the Board's toll-free number 1-844-762-NLRB (1-844-762-6572). Hearing impaired callers who wish to speak to an Agency representative should contact the Federal Relay Service (link is external) by visiting its website at <https://www.federalrelay.us/tty> (link is external), calling one of its toll free numbers and asking its Communications Assistant to call our toll free number at 1-844-762-NLRB.*

1240 E 9TH ST  
STE 1695  
CLEVELAND, OH 44199-2086

**Telephone:** (216)522-3715  
**Hours of Operation:** 8:15 a.m. to 4:45 p.m.

---

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE**

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the above Regional Office's Compliance Officer.



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 8  
1240 E 9TH ST  
STE 1695  
CLEVELAND, OH 44199-2086

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (216)522-3715  
Fax: (216)522-2418



Download  
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Mobile App

December 20, 2019

(b) (6), (b) (7)(C)

Re: University Hospitals  
Case 08-CA-241386

Dear (b) (6), (b) (7)(C)

Pursuant to our recent conversation, enclosed is the first amended charge form for your execution. Please sign and date where indicated and return it to this office as soon as possible.

Sincerely,

/s/ Roberta Montgomery  
Field Examiner

RAM/kw

Enclosure

UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**FIRST AMENDED CHARGE AGAINST EMPLOYER**

**INSTRUCTIONS:**

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
08-CA-241386	

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

**1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT**

a. Name of Employer University Hospitals Cleveland Medical Center		b. Tel. No. (b) (6), (b) (7)(C)
		c. Cell No.
d. Address (street, city, state ZIP code) (b) (6), (b) (7)(C)	e. Employer Representative (b) (6), (b) (7)(C)	f. Fax No.
		g. e-Mail (b) (6), (b) (7)(C) @uhhospitals.org
		h. City and State (b) (6), (b) (7)(C)
i. Type of Establishment (factory, nursing home, hotel) Hospital	j. Principal Product or Service Healthcare	k. Number of workers at dispute location 6000

1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Within the past six months, the above-named Employer, through its officers, agents and representatives, has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by refusing to promote (b) (6), (b) (7)(C) to its (b) (6), (b) (7)(C) position, a position for which (b) (6), (b) (7)(C) has been performing the job duties since approximately (b) (6), (b) (7)(C) 2018, because of (b) (6), (b) (7)(C) protected concerted activities.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

(b) (6), (b) (7)(C)

4a. Address (street and number, city, state, and ZIP code)

(b) (6), (b) (7)(C)

4b. Tel. No.

4c. Cell No.

(b) (6), (b) (7)(C)

4d. Fax No.

4e. e-Mail

(b) (6), (b) (7)(C)

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

**6. DECLARATION**

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

Tel. No.

By:

(signature of representative or person making charge)

(b) (6), (b) (7)(C)

Print Name and Title

Office, if any, Cell No.

(b) (6), (b) (7)(C)

Fax No.

Address: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Date:

e-Mail

(b) (6), (b) (7)(C)

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**  
**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.



UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
**FIRST AMENDED CHARGE AGAINST EMPLOYER**

**INSTRUCTIONS:**

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
08-CA-241386	12/26/19

File an original of this charge with NLRB Regional Director in which the alleged unfair labor practice occurred or is occurring.

**1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT**

a. Name of Employer University Hospitals Cleveland Medical Center		b. Tel. No. (b) (6), (b) (7)(C)
		c. Cell No.
d. Address (street, city, state ZIP code) (b) (6), (b) (7)(C)	e. Employer Representative (b) (6), (b) (7)(C)	f. Fax No.
		g. e-Mail (b) (6), (b) (7)(C)@uhhospitals.org
		h. Dispute Location (City and State) (b) (6), (b) (7)(C)
i. Type of Establishment (factory, nursing home, hotel) Hospital	j. Principal Product or Service Healthcare	k. Number of workers at dispute location 6000

1. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Within the past six months, the above-named Employer, through its officers, agents and representatives, has interfered with, restrained, and coerced its employees in the exercise of rights protected by Section 7 of the Act by refusing to promote (b) (6), (b) (7)(C) to its (b) (6), (b) (7)(C) position, a position for which (b) (6), (b) (7)(C) has been performing the job duties since approximately (b) (6), (b) (7)(C) 2018, because of (b) (6), (b) (7)(C) protected concerted activities.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

(b) (6), (b) (7)(C)	
4a. Address (street and number, city, state, and ZIP code) (b) (6), (b) (7)(C)	4b. Tel. No.
	4c. Cell No. (b) (6), (b) (7)(C)
	4d. Fax No.
	4e. e-Mail (b) (6), (b) (7)(C)

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief. (b) (6), (b) (7)(C)		Tel. No.
By: <input checked="" type="checkbox"/> (b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)	Office, if any, Cell No. (b) (6), (b) (7)(C)
(signature)	Print Name and Title (b) (6), (b) (7)(C)	Fax No.
Address: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)	Date: (b) (6), (b) (7)(C)	Mail (b) (6), (b) (7)(C)

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**  
**PRIVACY ACT STATEMENT**

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2019 DEC 26 AM 10:32  
8 NOV 2019  
CENTRAL





UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 8  
1240 E 9TH ST  
STE 1695  
CLEVELAND, OH 44199-2086

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (216)522-3715  
Fax: (216)522-2418



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December 30, 2019

(b) (6), (b) (7)(C)

Re: University Hospitals  
Case 08-CA-241386

Dear (b) (6), (b) (7)(C)

Enclosed is a copy of the first amended charge that has been filed in this case.

**Investigator:** This charge is being investigated by Field Examiner ROBERTA MONTGOMERY whose telephone number is (216)303-7371. If the agent is not available, you may contact Supervisory Attorney GREGORY GLEINE whose telephone number is (216)303-7365.

**Presentation of Your Evidence:** As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

**Preservation of all Potential Evidence:** Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

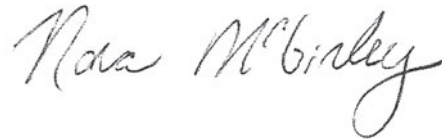
**Prohibition on Recording Affidavit Interviews:** It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

**Procedures:** Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn

statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site ([www.nlr.gov](http://www.nlr.gov)). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in cursive script, reading "Nora McGinley".

NORA MCGINLEY  
Acting Regional Director

NM/kw

Enclosure: Copy of first amended charge

cc: Zachary J. Mueller, Esquire  
Jackson Lewis, P.C.  
Liberty Center  
1001 Liberty Avenue, Suite 1000  
Pittsburgh, PA 15222

Douglas G. Smith, Esq.  
Jackson Lewis, P.C.,  
Liberty Center  
1001 Liberty Avenue, Suite 1000  
Pittsburgh, PA 15222

**UNITED STATES OF AMERICA**  
**BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**UNIVERSITY HOSPITALS**

Charged Party

and

**(b) (6), (b) (7)(C)**

Charging Party

**Case 08-CA-241386**

**AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on December 30, 2019, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

**(b) (6), (b) (7)(C)**

Douglas G. Smith, ESQ.  
Jackson Lewis, P.C.,  
Liberty Center  
1001 Liberty Avenue, Suite 1000  
Pittsburgh, PA 15222

Zachary J. Mueller, Esquire  
Jackson Lewis, P.C.  
Liberty Center  
1001 Liberty Avenue, Suite 1000  
Pittsburgh, PA 15222

December 30, 2019

Date

Kim Wallace, Designated Agent of NLRB

Name

/s/ Kim Wallace

Signature



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 8  
1240 E 9TH ST  
STE 1695  
CLEVELAND, OH 44199-2086

Agency Website: [www.nlr.gov](http://www.nlr.gov)  
Telephone: (216)522-3715  
Fax: (216)522-2418



Download  
NLRB  
Mobile App

December 30, 2019

(b) (6), (b) (7)(C)

Re: University Hospitals  
Case 08-CA-241386

Dear (b) (6), (b) (7)(C)

We have docketed the first amended charge that you filed in this case.

**Investigator:** This charge is being investigated by Field Examiner ROBERTA MONTGOMERY whose telephone number is (216)303-7371. If the agent is not available, you may contact Supervisory Attorney GREGORY GLEINE whose telephone number is (216)303-7365.

**Presentation of Your Evidence:** As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

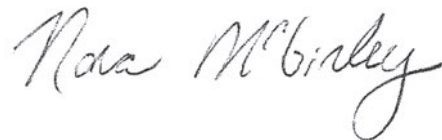
**Preservation of all Potential Evidence:** Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

**Prohibition on Recording Affidavit Interviews:** It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

**Procedures:** Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site ([www.nlr.gov](http://www.nlr.gov)). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Very truly yours,

A handwritten signature in cursive script, reading "Nora McGinley".

NORA MCGINLEY  
Acting Regional Director

NM/kw

---

**From:** Smith, Douglas G. (Pittsburgh) <Douglas.Smith@jacksonlewis.com>  
**Sent:** Tuesday, January 7, 2020 2:34 PM  
**To:** Gleine, Gregory; Mueller, Zachary J. (Pittsburgh)  
**Subject:** RE: NLRB Case 08-CA-241386 (University Hospitals Cleveland Medical Center)  
**Attachments:** HR-3.pdf

FOR SETTLEMENT PURPOSES ONLY

Greg-

Good speaking with you. As we discussed, attached is the HR policy regarding Compensation Management. The relevant section is 6.1, which identifies the amount of increase an employee will receive for a promotion based upon their current salary compared to the position mid-point. My client informs me that (b) (6), (b) (7)(C)

Let me know if you have further questions and I look forward to working with you on a satisfactory resolution of this matter.

Regards,  
Doug

**Douglas G. Smith**  
Attorney at Law  
Jackson Lewis P.C.  
Liberty Center  
1001 Liberty Avenue  
Suite 1000  
Pittsburgh, PA 15222  
Direct: (412) 338-5151 | Main: (412) 232-0404  
[Douglas.Smith@jacksonlewis.com](mailto:Douglas.Smith@jacksonlewis.com) | [www.jacksonlewis.com](http://www.jacksonlewis.com)

---

**From:** Gleine, Gregory <Gregory.Gleine@nrlb.gov>  
**Sent:** Monday, December 23, 2019 1:55 PM  
**To:** Mueller, Zachary J. (Pittsburgh) <Zachary.Mueller@jacksonlewis.com>; Smith, Douglas G. (Pittsburgh) <Douglas.Smith@jacksonlewis.com>  
**Cc:** Montgomery, Roberta <Roberta.Montgomery@nrlb.gov>  
**Subject:** NLRB Case 08-CA-241386 (University Hospitals Cleveland Medical Center)

Gentlemen,

Please see the attached correspondence and settlement proposal in the above-captioned case. Please contact me with any questions. I will be out of the office December 24 through December 27, 2019.

Regards,  
Greg



Gregory M. Gleine  
Supervisory Field Attorney  
National Labor Relations Board  
1240 E. 9<sup>th</sup> St., Room 1695  
Cleveland, OH 44199  
(216) 303-7365 direct  
(202) 316-0859 cell  
[gregory.gleine@nrlrb.gov](mailto:gregory.gleine@nrlrb.gov)

## HR-3 – Compensation Management

### Key Points

- University Hospitals (UH) strives to recruit and retain talented employees to support its organizational mission, vision, and strategic objectives. In support of this goal, UH provides a compensation program that is competitive with programs offered by other organizations with similar revenue, structure, mission, scope of programs, and complexity.
- At UH, employees are rewarded based on individual performance, competitive position in the market, and financial position of UH. UH compensation programs are designed to allow flexibility in establishing pay within a reasonable and competitive range, based on factors such as qualifications, experience, and special recruitment/retention needs.
- Changes in employee compensation are initiated and initially approved by the requesting department. All compensation changes must have two levels of approval and must not be communicated prior to final approval by Human Resources.
- Compensation includes all pay programs.

### Objectives

- Provide salaries that are competitive with those of other similar organizations.
- Administer salaries without regard to race, religion, sex, sexual orientation, national origin, age, or disability.
- Determine salaries based on market and the relative internal value of the positions as determined through objective position evaluations.
- Reward employees based on performance, also taking into account position in range.
- Provide fair, equitable and competitive compensation programs throughout UH.

### Policy & Procedure

1. This policy applies to all UH employees, except bargaining unit employees, executives and physicians.
2. Compensation Management is a partnership between Human Resources and management to administer the programs in a way that supports the vision of attracting and retaining top talent.
  - 2.1. The Total Rewards (Compensation) department will:
    - 2.1.1. Evaluate new positions and establish salary ranges and provide consultation to departments on compensation issues;

- 2.1.2. Review position descriptions in accordance with the Fair Labor Standards Act classification test regulations to determine if positions are exempt from overtime;
  - 2.1.3. Work with UH leadership in the development, approval and implementation of compensation programs as needed to meet our business objectives; and
  - 2.1.4. Budget for system-wide initiatives including the Salary Review Process (SRP).
  - 2.1.5. Review and approve all compensation increases to ensure market competitiveness and internal equity.
- 2.2. Department Managers will:
  - 2.2.1. Administer salaries in a fair and equitable manner;
  - 2.2.2. Prepare and maintain up-to-date position descriptions;
  - 2.2.3. Provide Human Resources with the original position description and competency review forms and provide updates as needed; and
  - 2.2.4. Provide ongoing performance feedback to each employee as well as an annual performance summary.
  - 2.2.5. Budget for equity adjustments.
- 3. Offer of Wages to New Employees

A salary offer to a new employee will normally be between the minimum and midpoint of the salary range for the position.

  - 3.1. However, an offer above midpoint may be warranted based upon the individual's qualifications and related experience and/or UH's ability to fill the position.
  - 3.2. Offers over midpoint will require the approval of the Total Rewards department prior to the offer being made.
  - 3.3. All salary offers must be made through the Human Resources department.
  - 3.4. Employees who transfer are not eligible to receive sign-on bonuses.
- 4. Salary Review Process (SRP)

The Salary Review Process is the annual review of employee performance and compensation.

  - 4.1. Employees are eligible to be considered for a SRP increase within the range for their position based upon job performance. Increases are effective on a pay period start date.
    - 4.1.1. Internal equity may be an additional consideration when determining the pay increase.
  - 4.2. The Total Rewards department recommends appropriate SRP increase budgets for UH. Increase guidelines will be established by the Total Rewards department with final approval by senior leadership.
  - 4.3. At UH, we are committed to paying market competitive rates. This is defined as base compensation within the range for each position. In rare circumstances, an employee's compensation may reach the maximum for that role. He/she will continue to be eligible for a SRP increase, however, it will be non-base building and will be paid in the form of a lump sum.



- 4.4. Employees on a leave of absence during the SRP process will have their compensation reviewed by their manager upon return from the leave of absence.
- 4.5. PRN positions with a single flat rate within UH will be reviewed periodically to ensure market competitiveness. Individuals in these positions are not eligible for SRP.
- 4.6. Employees who are red circled may not be eligible for SRP or lump sum pay outs. Refer to #11, Red Circling.

**5. Transfer or Lateral Move**

Lateral Move is defined as when an employee assumes an assignment to a different position in the same salary grade, or the same position in a different department or entity. A lateral move will not include a compensation increase. Exceptions require approval by Total Rewards.

- 5.1. Transfers that are lateral moves in the same salary range may result in wage decreases or nominal increases depending on the experience and training in the new position.
- 5.2. In extenuating circumstances, if an employee is transferred without a salary adjustment consideration at the time of transfer, the department manager may review the employee's performance within six months of the move for a possible increase. This is a one-time consideration for each move and should be noted at the time of transfer.
- 5.3. Offers made to employees who transfer between entities need to be made with close attention to internal equity. Depending on the equity of the department they are entering, a compensation increase or reduction may be necessary.

**6. Promotional Increases**

A Promotion occurs when an employee is awarded a new position with a significantly higher salary range.

- 6.1. Promotional increases are separate and distinct from SRP increases within a role. The following guidelines should be used for promotional increases:

Percent of New Midpoint					
	<85%	86-94%	95-105%	106-115%	>115%
% Increase Recommendation	8-15% or to minimum (whichever is greater)	7-5%	5-3%	3-1%	2-0%

- 6.2. The following should also be taken into consideration:
  - 6.2.1. Compensation equity with other employees in like positions within the department is to be analyzed before the final promotion adjustment amount is determined.
  - 6.2.2. Promotion increases must be at least to the minimum of the new salary range regardless of the percent increase.



- 6.2.3. If an employee is eligible for a SRP increase at the time of promotion, the promotional increase should take into account the SRP increase that was missed, and internal equity.

**7. Demotion**

When an employee changes roles, either voluntarily or involuntarily, to a position with a lower salary range, it is considered a demotion.

- 7.1. An employee's acceptance of a position within a UH entity that involves a significantly lower pay range may result in a wage decrease.
- 7.2. When an employee is demoted to a lower salary range due to performance, or requests a voluntary demotion, the salary will be adjusted to fit within the lower salary range. The experience and salary of other incumbents should be considered in salary level placement of the demoted employee.
- 7.3. Future salary changes will be administered through the SRP program.

**8. Red-Circling**

Red-circling or "grandfathering" a salary is the practice of permitting an employee's salary to exceed a salary range maximum. A recommendation to red circle an employee's salary must be considered on a case-by-case basis and must be approved by the Total Rewards department. Red circling may only occur in the case of a re-organization which results in an employee's salary being over the maximum of his/her established salary range (typically an involuntary change).

- 8.1. There is a limit of two annual salary range adjustment cycles for an employee's red-circled salary to be within the salary range of the new position. If, following the second annual salary range adjustment, the employee's salary is over the maximum of the salary range, the salary will be reduced *on that date* to the maximum of the salary range.
- 8.2. Red-circled employees are not eligible for a lump sum SRP payment.

**9. Position Re-evaluation**

Managers should work with their employees to ensure they are setting clear expectations for the position. These expectations are documented in job descriptions and change over time. If a position changes significantly, for example, the addition of supervisory responsibilities, significant change to span of control, etc., the manager may request the position be re-evaluated to ensure competitiveness and internal equity.

- 9.1. Increase in grade—If a re-evaluation of an employee's position moves from a lower to a significantly higher salary range (upgrade), a salary increase may be considered in accordance with the promotion increase guidelines. An increase due to change in market is considered a market adjustment.
- 9.2. Reduction in grade—A re-evaluation of an employee's position may result in the significant reduction in salary range (downgrade). A salary decrease may be considered depending on internal equity.
- 9.3. Management positions may require additional senior executive approval.

**10. Equity Adjustments**

A salary increase may be awarded to an employee who is a solid performer and whose base compensation is below market. Consult with Human Resources to determine the amount and timing for this type of increase.



- 10.1. Managers may need to budget additional equity dollars for those employees who are low in the salary range (below market midpoint).
- 10.2. Equity budgets are the responsibility of the department and are used for employees who are low in the salary range or who are near the minimum of the range.
11. **Market Adjustment**  
When the market for a particular position or group of positions has increased, additional base adjustments may be considered to remain competitive. This type of review is done by the Total Rewards department and is designed to ensure UH remains market competitive, especially for the difficult to recruit positions. Market adjustments require senior level approval.
12. **Wages for Interim Positions**  
Interim pay is available for employees who are willing to temporarily assume the duties of leadership positions.
  - 12.1. The salary of an employee who assumes an interim position should not exceed the amount that the employee would have received if appointed to the position.
  - 12.2. Interim pay increases are up to 10% for the duration of the interim role. Under special circumstances, an increase to the minimum of the salary range for the period of time the employee remains in the interim position, may be appropriate. All interim pay decisions should be made in partnership with the Human Resources Business Lead and approved by Total Rewards.
  - 12.3. Appointments to interim positions for those positions will occur only when the position will be vacant, for other than vacation purposes, for greater than 30 days.
  - 12.4. If SRP increases become effective during the time an employee is in an interim position, the SRP increase will be calculated based on the employee's current base salary.  
When the interim position has ended and the employee returns to his/her former position, the employee's salary will be reduced by the interim pay amount.
13. **Wage/Hour Law (Fair Labor Standards Act)**  
All new or revised position descriptions must be submitted to the Total Rewards department for a determination as to whether or not they are exempt or non-exempt from the provisions of the Wage/Hour Law. If a position is determined to be non-exempt, employees in the positions are eligible for and must be paid overtime. Payment for overtime hours is a requirement under the Wage/Hour Law and must be paid at one and one-half times the employee's rate of pay. No employee may waive his/her right to this overtime compensation.
14. Approved salary changes will be effective at the beginning of a pay period. Requests for retro-active pay changes require approval by senior leadership.

**PLEASE NOTE:** Any variances to this policy must be reviewed and approved by the Total Rewards department.



**SEE ALSO:**

**HR-15 - Overtime**

**HR-17 - PRN Employment**

**HR-62 - Management Incentive Compensation**

**HR-70 - Leaves of Absence**

	(b) (6), (b) (7)(C)	
		6/12/19 Date
		6-13-19 Date

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**From:** (b) (6), (b) (7)(C)  
**Sent:** Wednesday, January 22, 2020 12:14 PM  
**To:** Montgomery, Roberta  
**Subject:** (b) (6), (b) (7)(C)

Hi Roberta,

Just curious if anything is happening with my case. I haven't heard from HR yet.

Sorry to bug you, thank you.

(b) (6), (b) (7)(C)

Sent from my iPhone

---

**From:** Smith, Douglas G. (Pittsburgh) <Douglas.Smith@jacksonlewis.com>  
**Sent:** Friday, January 31, 2020 10:30 AM  
**To:** Gleine, Gregory  
**Subject:** RE: NLRB Case 08-CA-241386 (University Hospitals Cleveland Medical Center)  
**Attachments:** Agreement and Release (UH- (b) (6), (b) (7)(C) January 28, 2020.docx; 20200131100742477.pdf

Greg- Attached is a draft settlement agreement. It is in the same form as the (b) (6), (b) (7)(C) agreement. The wage component looks a little different because (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) I think it is self-explanatory. We have also attached the job description. It is the same position held by (b) (6), (b) (7)(C). Thanks and let me know if you have any questions.

Doug

**Douglas G. Smith**  
Attorney at Law  
**Jackson Lewis P.C.**  
Liberty Center  
1001 Liberty Avenue  
Suite 1000  
Pittsburgh, PA 15222  
Direct: (412) 338-5151 | Main: (412) 232-0404  
[Douglas.Smith@jacksonlewis.com](mailto:Douglas.Smith@jacksonlewis.com) | [www.jacksonlewis.com](http://www.jacksonlewis.com)

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**From:** Gleine, Gregory <Gregory.Gleine@nlrb.gov>  
**Sent:** Wednesday, January 29, 2020 6:18 PM  
**To:** Smith, Douglas G. (Pittsburgh) <Douglas.Smith@jacksonlewis.com>  
**Subject:** RE: NLRB Case 08-CA-241386 (University Hospitals Cleveland Medical Center)

Doug,

Any word from your client? The Charging Party is inquiring and I am getting some pressure to draft the complaint if settlement is not completed soon. Please let me know.

Thanks,  
Greg

Gregory M. Gleine  
Supervisory Field Attorney  
National Labor Relations Board  
1240 E. 9<sup>th</sup> St., Room 1695  
Cleveland, OH 44199  
(216) 303-7365 direct  
(202) 316-0859 cell  
[gregory.gleine@nlrb.gov](mailto:gregory.gleine@nlrb.gov)

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**From:** Smith, Douglas G. (Pittsburgh) <[Douglas.Smith@jacksonlewis.com](mailto:Douglas.Smith@jacksonlewis.com)>  
**Sent:** Tuesday, January 21, 2020 4:17 PM  
**To:** Gleine, Gregory <[Gregory.Gleine@nlrb.gov](mailto:Gregory.Gleine@nlrb.gov)>  
**Subject:** Re: NLRB Case 08-CA-241386 (University Hospitals Cleveland Medical Center)

Thanks, Greg. I'll be in touch shortly. I anticipate we will be good to go, but will confirm.  
Doug

**Douglas G. Smith**  
Attorney at Law  
**Jackson Lewis P.C.**  
Liberty Center  
1001 Liberty Avenue  
Suite 1000  
Pittsburgh, PA 15222  
Direct: (412) 338-5151 | Main: (412) 232-0404  
[Douglas.Smith@jacksonlewis.com](mailto:Douglas.Smith@jacksonlewis.com) | [www.jacksonlewis.com](http://www.jacksonlewis.com)

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On: 21 January 2020 15:49, "Gleine, Gregory" <[Gregory.Gleine@nlrb.gov](mailto:Gregory.Gleine@nlrb.gov)> wrote:  
Doug,

I do not anticipate any problems with the Acting Regional Director approving a withdrawal request conditioned on the performance of the undertakings in the private agreement provided it conforms with OM 07-27 and is similar to the example provided.

Please let me know if you have any questions.

Thanks,  
Greg  
Gregory M. Gleine  
Supervisory Field Attorney  
National Labor Relations Board  
1240 E. 9<sup>th</sup> St., Room 1695  
Cleveland, OH 44199  
(216) 303-7365 direct  
(202) 316-0859 cell  
[gregory.gleine@nlrb.gov](mailto:gregory.gleine@nlrb.gov)

---

**From:** Smith, Douglas G. (Pittsburgh) <[Douglas.Smith@jacksonlewis.com](mailto:Douglas.Smith@jacksonlewis.com)>  
**Sent:** Monday, January 20, 2020 9:19 AM  
**To:** Gleine, Gregory <[Gregory.Gleine@nlrb.gov](mailto:Gregory.Gleine@nlrb.gov)>  
**Subject:** RE: NLRB Case 08-CA-241386 (University Hospitals Cleveland Medical Center)

Greg- As you requested, attached is the settlement agreement signed by the Charging Party in the previous matter. Please let me know if the Board has any concerns about this form in the (b) (6), (b) (7)(C) matter. Thanks.

Doug

**Douglas G. Smith**

Attorney at Law

**Jackson Lewis P.C.**

Liberty Center

1001 Liberty Avenue

Suite 1000

Pittsburgh, PA 15222

Direct: (412) 338-5151 | Main: (412) 232-0404

[Douglas.Smith@jacksonlewis.com](mailto:Douglas.Smith@jacksonlewis.com) | [www.jacksonlewis.com](http://www.jacksonlewis.com)

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**From:** Gleine, Gregory <[Gregory.Gleine@nlrb.gov](mailto:Gregory.Gleine@nlrb.gov)>

**Sent:** Wednesday, January 8, 2020 12:05 PM

**To:** Smith, Douglas G. (Pittsburgh) <[Douglas.Smith@jacksonlewis.com](mailto:Douglas.Smith@jacksonlewis.com)>

**Subject:** RE: NLRB Case 08-CA-241386 (University Hospitals Cleveland Medical Center)

Doug,

Thanks for the policy information. I noticed that the policy was revised in May, 2019 and executed in June, 2019, *after* the position was awarded to (b) (6), (b) (7)(C). Do you know whether Section 6.1 was changed during the most recent revision, or did it read the same in the prior version? I.e., would (b) (6), (b) (7)(C) have been subjected to the same policy limitations had (b) (6), (b) (7)(C) been awarded the position?

As for your other question regarding backpay, the Region is taking the position that backpay / future pay would continue to accrue until placement or an offer of placement were rejected, consistent with the amended remedy portion of the *Georgia Power Co.*, decision I mentioned yesterday. The draft settlement agreement would need to reflect as much should the parties enter into an informal Board settlement.

Do you have confirmation from your client as to the availability, title and start date for a position for (b) (6), (b) (7)(C)? Also, if your client is adamantly opposed to an informal Board settlement, call me to discuss any proposed non-Board.

Regards,  
Greg

Gregory M. Gleine  
Supervisory Field Attorney  
National Labor Relations Board  
1240 E. 9<sup>th</sup> St., Room 1695  
Cleveland, OH 44199  
(216) 303-7365 direct  
(202) 316-0859 cell  
[gregory.gleine@nlrb.gov](mailto:gregory.gleine@nlrb.gov)

---

From: Smith, Douglas G. (Pittsburgh) <[Douglas.Smith@jacksonlewis.com](mailto:Douglas.Smith@jacksonlewis.com)>  
Sent: Tuesday, January 7, 2020 2:34 PM  
To: Gleine, Gregory <[Gregory.Gleine@nlrb.gov](mailto:Gregory.Gleine@nlrb.gov)>; Mueller, Zachary J. (Pittsburgh) <[Zachary.Mueller@jacksonlewis.com](mailto:Zachary.Mueller@jacksonlewis.com)>  
Subject: RE: NLRB Case 08-CA-241386 (University Hospitals Cleveland Medical Center)

FOR SETTLEMENT PURPOSES ONLY

Greg-

Good speaking with you. As we discussed, attached is the HR policy regarding Compensation Management. The relevant section is 6.1, which identifies the amount of increase an employee will receive for a promotion based upon their current salary compared to the position mid-point. My client informs me that (b) (6), (b) (7)(C)

[REDACTED]

Let me know if you have further questions and I look forward to working with you on a satisfactory resolution of this matter.

Regards,  
Doug

**Douglas G. Smith**

Attorney at Law

**Jackson Lewis P.C.**

Liberty Center

1001 Liberty Avenue

Suite 1000

Pittsburgh, PA 15222

Direct: (412) 338-5151 | Main: (412) 232-0404

[Douglas.Smith@jacksonlewis.com](mailto:Douglas.Smith@jacksonlewis.com) | [www.jacksonlewis.com](http://www.jacksonlewis.com)

---

From: Gleine, Gregory <[Gregory.Gleine@nlrb.gov](mailto:Gregory.Gleine@nlrb.gov)>  
Sent: Monday, December 23, 2019 1:55 PM  
To: Mueller, Zachary J. (Pittsburgh) <[Zachary.Mueller@jacksonlewis.com](mailto:Zachary.Mueller@jacksonlewis.com)>; Smith, Douglas G. (Pittsburgh) <[Douglas.Smith@jacksonlewis.com](mailto:Douglas.Smith@jacksonlewis.com)>  
Cc: Montgomery, Roberta <[Roberta.Montgomery@nlrb.gov](mailto:Roberta.Montgomery@nlrb.gov)>  
Subject: NLRB Case 08-CA-241386 (University Hospitals Cleveland Medical Center)

Gentlemen,

Please see the attached correspondence and settlement proposal in the above-captioned case. Please contact me with any questions. I will be out of the office December 24 through December 27, 2019.

Regards,  
Greg  
Gregory M. Gleine



Supervisory Field Attorney  
National Labor Relations Board  
1240 E. 9<sup>th</sup> St., Room 1695  
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(216) 303-7365 direct  
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[gregory.gleine@nrlrb.gov](mailto:gregory.gleine@nrlrb.gov)

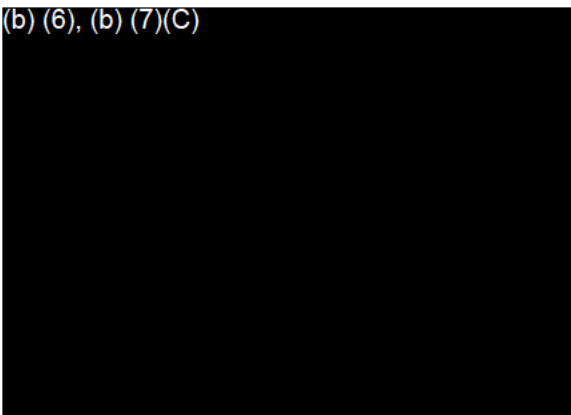
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**From:** (b) (6), (b) (7)(C)  
**Sent:** Monday, February 17, 2020 11:53 AM  
**To:** Montgomery, Roberta  
**Subject:** UH agreement  
**Attachments:** [Untitled].pdf

Attached is the agreement from UH. (b) (6), (b) (7)(C)  
(b) (6), (b) (7)(C) I told them I would return it by Wednesday.

Thanks for everything

(b) (6), (b) (7)(C)



---

**From:** (b) (6), (b) (7)(C)  
**Sent:** Monday, February 17, 2020 11:32 AM  
**To:** (b) (6), (b) (7)(C)  
**Subject:**

Please open the attached document. This document was digitally sent to you using an HP Digital Sending device.

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Visit us at

<https://gcc01.safelinks.protection.outlook.com/?url=www.UHhospitals.org&data=02%7C01%7C%7C28971429706349d0df1d08d7b3ca0312%7C5e453ed8e33843bb90754ed5b8a8caa4%7C0%7C0%7C637175553247725847&sdata=Y6PppAw2t6qO8LDsJ6RjrWWQIYec0DaGhZpiwaoUsT0%3D&reserved=0>

The enclosed information is STRICTLY CONFIDENTIAL and is intended for the use of the addressee only. University Hospitals and its affiliates disclaim any responsibility for unauthorized disclosure of this information to anyone other than the addressee.

Federal and Ohio law protect patient medical information, including psychiatric\_disorders, (H.I.V) test results, A.I.Ds-related conditions, alcohol, and/or drug\_dependence or abuse disclosed in this email. Federal regulation (42 CFR Part 2) and Ohio Revised Code section 5122.31 and 3701.243 prohibit disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law.

## AGREEMENT AND RELEASE ("Agreement")

This Agreement is entered into between (b) (6), (b) (7)(C) ("(b) (6), (b) (7)(C)") and University Hospitals ("UH"), collectively referred to as the "Parties."

WHEREAS, (b) (6), (b) (7)(C) filed an unfair labor practice charge with the National Labor Relations Board ("NLRB") docketed at Case No. 08-CA-241386 (the "NLRB charge"); and

WHEREAS, UH denies any and all allegations of illegal conduct; and

WHEREAS, to avoid the time and expense of further legal action, the Parties agree to settle all matters raised in the NLRB charge.

NOW, THEREFORE, IT IS STIPULATED AND AGREED BY THE PARTIES AS FOLLOWS:

### 1. Consideration.

In consideration for signing this Agreement and complying with its terms, UH agrees to the following:

a. Effective the first pay period after the NLRB approves the withdrawal of the NLRB charge, (b) (6), (b) (7)(C) will be promoted to the position of (b) (6), (b) (7)(C) at an hourly rate of (b) (6), (b) (7)(C). A copy of the Job Description for (b) (6), (b) (7)(C) is attached as Exhibit A.

b. Effective the first pay period after the NLRB approves the withdrawal of the charge, (b) (6), (b) (7)(C) will receive a payment of the (b) (4), (b) (6), (b) (7)(C)  
(b) (4), (b) (7)(C), (b) (7)(D)

c. Effective the first pay period after the NLRB approves withdrawal of the charge, UH will make appropriate contributions to (b) (6), (b) (7)(C) 403B account based on the payment made in b. above.

d. Upon executing this Agreement, (b) (6), (b) (7)(C) will request withdrawal of the NLRB charge. This Agreement shall not take effect and shall be null and void in the event that the NLRB charge is not withdrawn.

### 2. No Consideration Absent Execution of this Agreement.

(b) (6), (b) (7)(C) understands and agrees that (b) (6), (b) (7)(C) would not receive the monies and/or benefits specified in Paragraph 1 above, except for the execution of this Agreement and fulfillment of the promise contained herein.

3. **Acknowledgements and Affirmations.**

(b) (6), (b) (7)(C) affirms that (b) (6), (b) (7)(C) has not filed, caused to be filed, and presently is not a party to any other claim against UH, except the NLRB charge. UH also affirms that, as with (b) (6), (b) (7)(C) current position, UH has no objection to (b) (6), (b) (7)(C) continuing (b) (6), (b) (7)(C) volunteer and external per diem work in (b) (6), (b) (7)(C) role of (b) (6), (b) (7)(C), as long as these external positions do not interfere with (b) (6), (b) (7)(C) role or normal UH business functions.

4. **Limited Disclosure.**

(b) (6), (b) (7)(C) agrees not to disclose any information regarding the sums paid in Paragraph 1, except to (b) (6), (b) (7)(C)'s spouse, tax advisor or an attorney (b) (6), (b) (7)(C) may choose to consult regarding Gorczyca's consideration of this Agreement, and/or any federal, state, or local government agency or as required by law or compelled by legal process.

5. **Nonadmission of Wrongdoing.**

The Parties agree that neither this Agreement, nor the furnishing of the consideration for this Agreement, shall be deemed or construed at any time for any purpose as an admission by either party of wrongdoing or evidence of any liability or unlawful conduct of any kind.

6. **Amendment.**

This Agreement may not be modified, altered, or changed, except in writing and signed by both Parties wherein specific reference is made to this Agreement.

7. **Entire Agreement.**

This Agreement sets forth the entire Agreement between the Parties hereto. (b) (6), (b) (7)(C) acknowledges that (b) (6), (b) (7)(C) has not relied on any representatives, promises, or agreements of any kind, except for those set forth in this Agreement.

**(b) (6), (b) (7)(C) FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTERS INTO THIS AGREEMENT.**

The Parties knowingly and voluntarily sign this Agreement as of the date(s) set forth below.

**UNIVERSITY HOSPITALS**

By: \_\_\_\_\_  
**(b) (6), (b) (7)(C)**

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

---

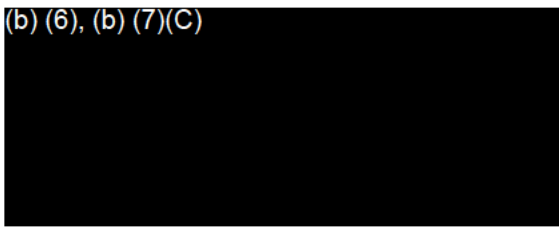
**From:** (b) (6), (b) (7)(C)  
**Sent:** Friday, February 21, 2020 9:53 AM  
**To:** Montgomery, Roberta  
**Subject:** (b) (6), (b) (7)(C) University Hospitals

Roberta,

I would like to officially withdraw the charges against University Hospitals pending their signing of the agreement.

Thank You

(b) (6), (b) (7)(C)



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Visit us at [www.UHhospitals.org](http://www.UHhospitals.org).

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## AGREEMENT AND RELEASE ("Agreement")

This Agreement is entered into between (b) (6), (b) (7)(C) ("b) (6), (b) (7)(C)") and University Hospitals ("UH"), collectively referred to as the "Parties."

WHEREAS, (b) (6), (b) (7)(C) filed an unfair labor practice charge with the National Labor Relations Board ("NLRB") docketed at Case No. 08-CA-241386 (the "NLRB charge"); and

WHEREAS, UH denies any and all allegations of illegal conduct; and

WHEREAS, to avoid the time and expense of further legal action, the Parties agree to settle all matters raised in the NLRB charge.

NOW, THEREFORE, IT IS STIPULATED AND AGREED BY THE PARTIES AS FOLLOWS:

### 1. Consideration.

In consideration for signing this Agreement and complying with its terms, UH agrees to the following:

a. Effective the first pay period after the NLRB approves the withdrawal of the NLRB charge, (b) (6), (b) (7)(C) will be promoted to the position of (b) (6), (b) (7)(C), at an hourly rate of (b) (6), (b) (7)(C). A copy of the Job Description for Cardiac Sonographer – Lead is attached as Exhibit A.

b. Effective the first pay period after the NLRB approves the withdrawal of the charge, (b) (6), (b) (7)(C) will receive a payment of (b) (4), (b) (6), (b) (7)(C).  
(b) (4), (b) (6), (b) (7)(C)

c. Effective the first pay period after the NLRB approves withdrawal of the charge, UH will make appropriate contributions to (b) (6), (b) (7)(C) 403B account based on the payment made in b. above.

d. Upon executing this Agreement, (b) (6), (b) (7)(C) will request withdrawal of the NLRB charge. This Agreement shall not take effect and shall be null and void in the event that the NLRB charge is not withdrawn.

### 2. No Consideration Absent Execution of this Agreement.

(b) (6), (b) (7)(C) understands and agrees that (b) (6), (b) (7)(C) would not receive the monies and/or benefits specified in Paragraph 1 above, except for the execution of this Agreement and fulfillment of the promise contained herein.



**3. Acknowledgements and Affirmations.**

(b) (6), (b) (7)(C) affirms that (b) (6), (b) (7)(C) has not filed, caused to be filed, and presently is not a party to any other claim against UH, except the NLRB charge. UH also affirms that, as with (b) (6), (b) (7)(C) current position, UH has no objection to (b) (6), (b) (7)(C) continuing (b) (6), (b) (7)(C) volunteer and external per diem work in (b) (6), (b) (7)(C) role of (b) (6), (b) (7)(C), as long as these external positions do not interfere with (b) (6), (b) (7)(C) role or normal UH business functions.

**4. Limited Disclosure.**

(b) (6), (b) (7)(C) agrees not to disclose any information regarding the sums paid in Paragraph 1, except to (b) (6), (b) (7)(C) spouse, tax advisor or an attorney (b) (6), (b) (7)(C) may choose to consult regarding (b) (6), (b) (7)(C) consideration of this Agreement, and/or any federal, state, or local government agency or as required by law or compelled by legal process.

**5. Nonadmission of Wrongdoing.**

The Parties agree that neither this Agreement, nor the furnishing of the consideration for this Agreement, shall be deemed or construed at any time for any purpose as an admission by either party of wrongdoing or evidence of any liability or unlawful conduct of any kind.

**6. Amendment.**

This Agreement may not be modified, altered, or changed, except in writing and signed by both Parties wherein specific reference is made to this Agreement.

**7. Entire Agreement.**

This Agreement sets forth the entire Agreement between the Parties hereto. (b) (6), (b) (7)(C) acknowledges that (b) (6), (b) (7)(C) has not relied on any representatives, promises, or agreements of any kind, except for those set forth in this Agreement.

(b) (6), (b) (7)(C) **FREELY AND KNOWINGLY, AND AFTER DUE CONSIDERATION, ENTERS INTO THIS AGREEMENT.**

The Parties knowingly and voluntarily sign this Agreement as of the date(s) set forth below.

By: (b) (6), (b) (7)(C)

Date: 2/19/2020

UNIVERSITY HOSPITALS

By: (b) (6), (b) (7)(C)

Date: 2/21/2020



UNITED STATES GOVERNMENT  
NATIONAL LABOR RELATIONS BOARD

REGION 8  
1240 E 9TH ST  
STE 1695  
CLEVELAND, OH 44199-2086

Agency Website: [www.nlrb.gov](http://www.nlrb.gov)  
Telephone: (216)522-3715  
Fax: (216)522-2418

February 21, 2020

Douglas G. Smith, Esq.  
Jackson Lewis, P.C.  
Liberty Center  
1001 Liberty Avenue, Suite 1000  
Pittsburgh, PA 15222

Re: University Hospitals Cleveland Medical  
Center  
Case 08-CA-241386

Dear Mr. Smith:

Your request to withdraw the charge you filed against University Hospitals is based upon a private agreement between the parties on the matters underlying this charge. I have approved this withdrawal request, conditioned on the performance of the undertakings in the private agreement between the parties.

The charge is subject to reinstatement for further processing if the Charging Party's request for reinstatement is supported by evidence of noncompliance with the undertakings in the private agreement.

Very truly yours,

NORA F. MCGINLEY  
Acting Regional Director

cc: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)